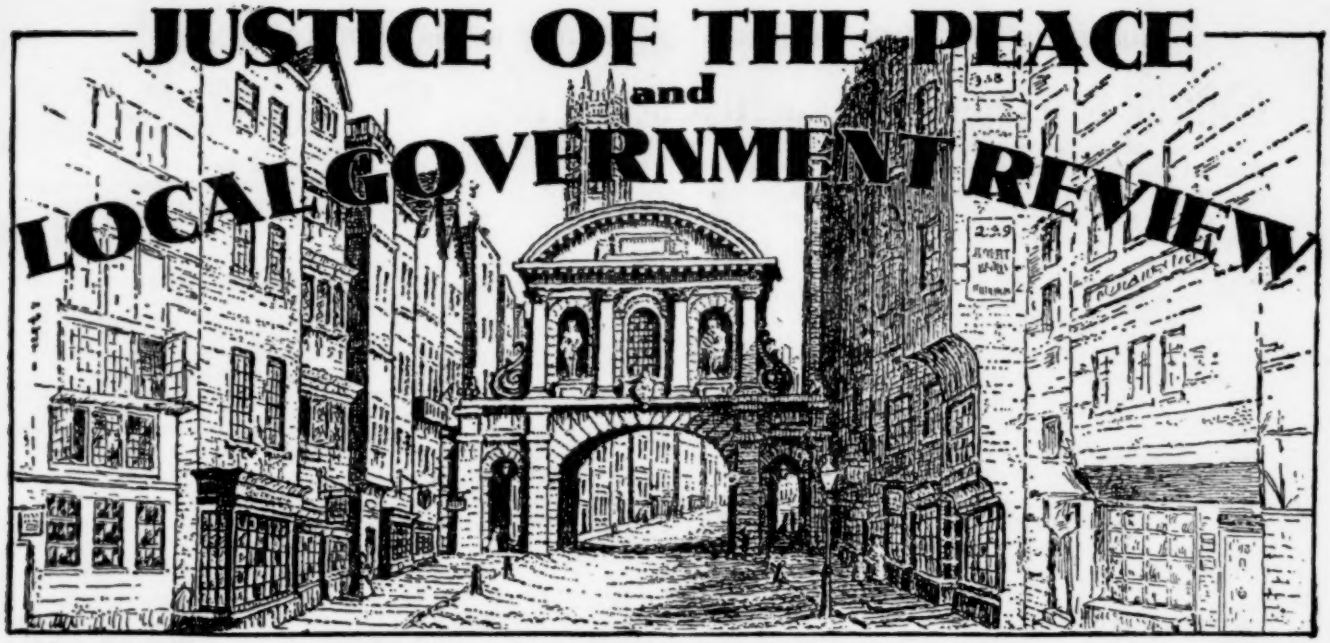
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



VOL. CXVIII LONDON : SATURDAY, OCTOBER 23, 1954 No. 43

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. 6d. per line and 3s. 6d. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex
Telephone : CHICHESTER 3637 (P.B.E.) *Telegraphic Address :* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant) Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

CITY OF SALFORD

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited from persons between the ages of 23 and 40 (except in the case of a serving full-time Probation Officer) for the appointment of Probation Officer.

The appointment will be subject to the Probation Rules 1949-1952, and the salary according to the scale prescribed thereby, subject to superannuation deductions.

The successful applicant may be required to undergo a medical examination.

Applications, stating age, qualifications and experience, together with copies of not more than three recent testimonials should be sent to the undersigned not later than November 6, 1954.

J. W. REAVEY,
Secretary to the Probation Committee.

Justices' Clerk's Office,
Magistrates' Court, Town Hall,
Bexley Square, Salford, 3.

METROPOLITAN BOROUGH OF GREENWICH

Deputy Town Clerk

APPLICANTS must be qualified solicitors with wide local government experience. Salary in accordance with Grade "F" of Memorandum of Recommendations of Joint Negotiating Committee for Chief Officers of Local Authorities (£1,350 × £50—£1,600). Applications, on forms to be obtained from undersigned, receivable by November 10, 1954.

HAROLD WHETSTONE,
Town Clerk.

Town Hall,
Greenwich, S.E.10.

BOROUGH OF HENDON

Second Assistant Solicitor

APPLICATIONS are invited for the abovementioned post in the Town Clerk's Department, with salary in accordance with Grade A.P.T. IX including London Weighting, i.e., £870 × £40—£990 per annum. (Maximum may be increased to £1,030.)

Experience in Local Government and in advocacy will be an advantage.

The appointment is subject to the National Scheme, to the Local Government Superannuation Acts and to the passing of a medical examination.

Applications, stating age, qualifications, details of education and experience, date of admission and full details of present appointment, and giving the names and addresses of three referees, must be delivered to the undersigned by November 1, 1954.

Canvassing will disqualify.

R. H. WILLIAMS,
Town Clerk.

Town Hall,
Hendon, N.W.4.
October 14, 1954.

COUNTY BOROUGH OF NEWPORT (MONMOUTHSHIRE) MAGISTRATES' COURTS COMMITTEE

Appointment of Male Second Assistant to the Clerk to the Justices

APPLICATIONS are invited for the above appointment. Applicants must have a thorough knowledge of the work of a Justices' Clerk's Office, be capable of taking courts when necessary, issuing process, and taking depositions.

Salary in accordance with A.P.T. II of the National Joint Council Scale (£520 per annum rising to £565 per annum). The Magistrates' Courts Committee will review the salary when National Scales for Justices' Clerks' Assistants have been negotiated or fixed. The appointment, which is superannuable, will be subject to one month's notice on either side, and the successful applicant will be required to pass a medical examination.

Applications, stating age and experience, together with copies of two recent testimonials, must reach the undersigned not later than October 29, 1954.

R. J. ROWLANDS,
Clerk to the Committee.

Magistrates' Clerk's Office,
Civic Centre,
Newport, Mon.

CITY AND COUNTY OF BRISTOL

Children's Officer

APPLICATIONS invited for the superannuable appointment of Children's Officer (male or female) at a salary in accordance with Grade E of the Joint Negotiating Committee's Scale for Chief Officers (£1,250—£1,450).

Applicants, who must not be under 30 years of age, should have had wide experience of work with children and have a keen interest in their welfare. Applicants should give details of their administrative experience including local government procedure. Possession of a University degree with a Social Science Diploma, or other appropriate qualification, is desirable. Appointment will be terminable by three months' notice in writing by either side.

The successful candidate will be required to pass a medical examination.

Applications, endorsed "Children's Officer," stating age, qualifications and experience, together with the names of three referees, should reach the Town Clerk, Council House, Bristol, 1, by noon on November 1, 1954.

WARWICKSHIRE COMBINED AREA PROBATION COMMITTEE

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time male Probation Officer. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers. The appointment will be subject to the Probation Rules, 1951-1954, and the salary in accordance with the prescribed scales. The successful applicant will be required to pass a medical examination and to reside in the Nuneaton area.

Applications, on forms obtainable from the undersigned, must be received not later than Monday, November 1, 1954.

L. EDGAR STEPHENS,
Secretary of the Committee.

Shire Hall,
Warwick.
October 11, 1954.

CITY OF CARDIFF

Appointment of Assistant Chief Constable

APPLICATIONS are invited for the above appointment at a salary of £1,200 per annum rising by annual increments of £50 to a maximum of £1,350 per annum, together with appropriate allowances.

The appointment will be subject to the Police Pensions Act, 1948, and to the Police Regulations from time to time in force.

Applications, stating age, experience, present employment and the number of years' pensionable service in any police force, and giving the names and addresses of three persons to whom reference may be made, must be delivered to the undersigned in envelopes endorsed "Assistant Chief Constable," not later than 12 noon on October 27, 1954. Canvassing in any form will disqualify and applicants should disclose any known relationship to any member or chief officer of the Cardiff City Council.

S. TAPPER-JONES,
Town Clerk.

City Hall,
Cardiff.
October 8, 1954.

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

VOL. CXVIII. No. 43 LONDON : SATURDAY, OCTOBER 23, 1954

Pages 660-675 Offices: Little London, Chichester, Sussex. [Registered at the General Post Office as a Newspaper]

Price 2s. 3d. (including Reports)
Price 1s. 3d. (without Reports)

NOTES of the WEEK

Saving Time in the Magistrates' Courts

Magistrates, clerks, practitioners, police and others who have had experience of the congestion that often results from the large number of minor traffic and other offences heard in the magistrates' courts must have been pleased to hear of the appointment of a departmental committee to study possible means of reducing the time spent over such cases and to make recommendations on the subject.

There have been many suggestions from a variety of quarters, and we have little doubt that the committee will be offered a great deal of evidence and will find itself able to make practical suggestions that will result in the saving of much time.

In particular, the question of proving convictions where, as in many road traffic offences, the defendant does not appear either personally or by advocate calls for attention. To call police officers to give strict proof may involve both time and expense.

It is admittedly undesirable that magistrates should be in ignorance of a defendant's previous convictions because he is not present and cannot be identified, and some courts take upon themselves to act upon a record which is stated but not proved. That course is difficult to defend, and some method of informing the court without giving strict proof, while insuring at the same time that the defendant is not prejudiced by the mention of convictions which he disputes, would be of real assistance in the due administration of justice.

The imposition of fines, by agreement, without a court hearing, would be an innovation in English procedure, but the system has been adopted in many countries. We referred to this matter at p. 632 *ante*.

Slaughter of Animals

The Minister of Food, acting under s. 2 of the Slaughter of Animals (Amendment) Act, 1954, has made the Slaughter of Animals (Prevention of Cruelty) Regulations, 1954 (S.I. No. 1280), which came into force on October 1. The regulations re-enact certain provisions of the Protection of Animals Act, 1911 (with respect to Knackers' Yards) and of the Slaughter of Animals Acts, 1933 and 1951 (with respect to slaughter-houses and knackers' yards) which are repealed by the Slaughter of Animals (Amendment) Act, 1954.

Malicious Wounding

" Maliciously " implies the doing of something which a person has no right to do in order to secure some object by means which are improper, *R.* v. *Syme* (1911) 75 J.P. 536 ; *R.* v. *Johnson* [1913] 9 C. App. Rep. 57 at p. 59.

Words such as " malicious " " wilful " and " fraudulent " are not always to be interpreted in the same way as in everyday speech when they are used in the description of a criminal offence. Juries sometimes have to be directed and justices must direct themselves as to the application of such words in particular circumstances. In the summing up by Byrne, J., in the case of *R.* v. *Wheeler*, reported in *The Times* of October 8, there was a direction on the question of malice. The learned judge said that in both the first two counts of the indictment of intent to murder and intent to cause grievous bodily harm the intent must be established. The defence was that it was an accident. If upon a review of the evidence the jury came to the conclusion that the wound was caused accidentally they would acquit. If the evidence did not satisfy them that Mrs. Wheeler deliberately fired at Lord Vivian but it satisfied them that she deliberately fired that pistol to frighten Lord Vivian, to make him jump or scare him, and that when she was doing that he grabbed at the weapon and by grabbing it in some way caused the weapon to discharge so that the bullet entered his body, then although in common parlance that would be an accident, in law it would amount to unlawful and malicious wounding.

In the result the jury returned a verdict of guilty of malicious wounding, but before doing so asked for a further direction, and the learned judge directed that it was unnecessary that a specific intention should be established. If the evidence satisfied the jury that the defendant knew that Lord Vivian was close at hand, and she then deliberately fired the gun in his direction, that would be an unlawful and malicious act. It was unlawful to fire a gun in the direction of another person.

Probation Instead of Preventive Detention

The Court of Criminal Appeal often has to refuse to reduce a sentence, and sometimes feels constrained to increase a sentence. It must be a matter of satisfaction to the learned judges, as it certainly is to probation officers and others who believe in the probation system rightly administered, when the Court is able to give an old offender a fresh start by substituting a probation order for a sentence.

In *R.* v. *Smith* (*The Times*, October 12) the appellant had been sentenced at quarter sessions to seven years' preventive detention for larceny. He had been released from prison as recently as March 11 after serving a sentence of five years' preventive detention.

Delivering the judgment of the Court the Lord Chief Justice said that on leaving prison the appellant had obtained work and was working well and keeping good time, when misfortune befell him. As was common in many trades, a week's money was kept back by his employers so that he got no money from them for a fortnight. Then his landlady gave him notice. He had to pay her at once, and at the new lodgings he obtained he had to pay money on account. He had no money to pay for food, and he stole £2 15*s.* 3*d.* in the house he went to. That money had since been repaid out of his earnings.

This proved to be a case in which it appeared that the appellant had never been put on probation before, and since the Court felt that the man had really made an effort to keep straight, it was just possible, said Lord Goddard, that if he were given a chance and put under a probation officer he might reform.

Naturally the appellant was warned that if he failed he would probably go back to preventive detention for a long time. He should certainly be under no misapprehension about the exceptional chance he has been given and the just punishment he would incur if he failed to heed the warning given by the Lord Chief Justice.

Questions from the Bench

There have been some instances in recent years when magistrates, and even judges have intervened so often during the conduct of a case that on the hearing of an appeal disapproval has been expressed by the court. Sometimes frequent interventions from the bench can be a real embarrassment to an advocate who is trying to present his case according to his instructions and in what he feels to be the most suitable form.

That is not to say that judges and magistrates are not entitled to intervene from time to time as they may think necessary in the interests of a proper trial of the issues. Thus, in *R.* v. *Ingram* (*The Times*, October 12) the Court of Criminal Appeal refused leave to appeal against sentence where the sole ground of appeal was an allegation that at the assizes the applicant was not given a fair trial or a fair opportunity of putting his case, because of continual interruptions, numbering several hundred, by the judge during the applicant's evidence and counsel's closing speech.

The Lord Chief Justice said the members of the Court had read a transcript of the proceedings, and he did not think it fair to say that the learned judge continually interrupted. Mostly he was reading out what he was writing down and quite properly clearing up ambiguities.

Lay justices no doubt need to be even more careful than judges and chairmen with legal training, in deciding when to interpose questions during the conduct of a case. Nevertheless it is permissible and may be their duty to ask questions to elucidate matters which have not been made clear to them. Such questions usually come best from the chairmen of the bench, and are not likely to be resented if they are timed so as to avoid as far as possible any awkward break in the evidence of a witness or a speech by an advocate.

Bigamy

It is a commonplace saying that few crimes differ more in gravity than the crime of bigamy, that is why sentences vary from the nominal one or two days to seven years. In some instances it almost seems as though there was nothing wrong in it except from a purely moral point of view, while in others it inflicts grievous wrong upon a woman and perhaps upon two women as well as upon children.

In the Court of Criminal Appeal on October 11 a sentence of two years passed upon a man named Stephenson in respect of two offences of bigamy was reduced to such a sentence as would mean his immediate release. He was sentenced in July.

In the course of his judgment the Lord Chief Justice said that, following a bigamous marriage in 1940 the appellant, who had committed bigamy in 1936 and 1937, had lived with the woman as a perfectly faithful spouse if one might use that expression. They had two children and the woman intended to remain with him. He was in good employment and had a house which he would lose if the sentence stood, and he was unlikely to commit bigamy again.

A case like this has its human interest, but it is also of value as throwing light upon the principles and considerations that may help courts in deciding what is often the difficult question of sentence.

Another Bulletin for Justices

We are indebted to Mr. R. Kenneth Cooke, O.B.E., clerk to the Prescot and St. Helens justices who has sent us a copy of the first number of *The Prescot and St. Helens* (*County*) *Magistrate*, a bulletin which he hopes to issue quarterly in future.

Mr. Cooke says that his aim is to publish leading cases of the preceding quarter which affect magisterial work, new Acts of Parliament of a similar nature, interesting penalties in other courts and a certain number of statistics. It is hoped to publish a leading article in each issue, dealing with some matter of topical interest. This first number includes an article on New Criminal Courts for South Lancashire. There is a useful list of recent statutes and orders to which the attention of magistrates should be called, with the dates of coming into operation. A thoughtful discussion of the question of collaboration by police officers in writing notes of interviews, with special reference to the case of *R.* v. *Bass* [1953] 1 All E.R. 1064, deals fairly with a very difficult question upon which justices may well feel the need for guidance.

A number of recent decisions are included and of these Mr. Cooke writes: "Here follows a collection of cases, mostly appeal decisions, reported within the last three months, each of which has been specially selected from the voluminous law reports as being of particular interest to magistrates, and suitably edited for reading by the layman. These cases all expound and explain points of law which frequently confront magistrates, as they sit upon the bench." The short explanatory statements are a useful feature of these reports.

There are, of course, items of peculiarly local interest such as justices would expect to find in a periodical published for their information. Mr. Cooke informs us that, acting upon a suggestion made in our columns, he proposes in future issues to record the results of committals to the higher Courts.

This is another excellent example of a bulletin for justices, written largely in a more intimate and less formal style than would be adopted if it were not addressed by the editor to a body of justices whom he knows well and who know him. We think it is all the better for that.

Dictionaries in Court

In two cases reported in *The Times* of October 7, recourse was had to standard dictionaries during the consideration of the meaning to be attached to a word in a document. In *Eastaugh and Others* v. *Macpherson* the point was what was meant by the words " by 31st March " in a notice to quit and it was the word " by " which was dealt with in the arguments and in the judgment of the Court of Appeal. A county court Judge had held that a notice

to quit by "31st March" meant that the tenant must leave not later than midnight on March 30 and that therefore the notice was invalid because admittedly the tenancy lasted up to and including March 31.

In the course of his judgment, the Master of the Rolls said the court had been referred to the definition of " by " in the *Shorter Oxford Dictionary*. In relation to time, the definitions given by the lexicographers were " in the course of " and " in or on." Later it gave " on or before " " not later than " and " within." He would be inclined to hold that " by that date " meant " on or before that date," but in any event the phrase must be construed in the light of the whole of the letter containing the notice, and it was clear that the tenant was required to vacate the premises on or before March 31. It had been argued that since the county court Judge took one view and the Court of Appeal was inclined to take another there must be ambiguity. In a sense that was true, but he (the Master of the Rolls) felt that when the court decided what was the right construction it could not be said that the expression was ambiguous. The appeal was allowed and an order for possession was made.

The other case was *Jonathan Cape, Ltd.* v. *Consolidated Press, Ltd.*, in which, in an action for alleged infringement of copyright, the question was whether a certain work had been published in volume form. It had appeared, complete in an issue of a periodical with the usual paper cover. In his judgment, Danckwerts, J., said he had been referred to the *Shorter Oxford Dictionary*.

Under the word " volume " the material passage read " a collection of written or printed sheets bound together so as to form a book," and referring to the definition of " book " in the same dictionary he found " a collection of sheets of paper . . . blank, written or printed, fastened together so as to form a material whole." The defendants' publication met the definition of a volume and of a book so that it did form a volume ; and it seemed to him (his Lordship) immaterial that it was not published in the form of an object with thick cardboard sides but merely with a paper cover. In the agreement a distinction had been drawn between publication in volume form and in serial form, and this complete edition was in volume form.

Civil Liberty and Local Freedom

We have spoken from time to time about restrictions imposed by local authorities upon the way tenants keep their gardens ; upon the destruction of council house gardens in order to make grass strips which will look tidier, and so forth. Years ago we expressed regret at the attempts of many local authorities to restrain their tenants, in such matters as the keeping of small livestock. Doubtless all these things tend to produce that uniformity which is dear to the minds of many local officials and some councillors; we merely say we do not like use of the exceptional powers of the local authority, to impose on its tenants restrictions and prohibitions, and maybe a quality of smug respectability, which private landlords could not impose and which tenants would not endure if there were a free market in houses. Having said so much, we note that the cause of tenants troubled in these matters is apparently being taken up by the National Council of Civil Liberties. We do not wish to say anything against this body ; it is for all we know perfectly equipped to handle grievances of this sort, but the fact remains that in the minds of ordinary people it is mainly associated with the support of conscientious objectors in time of war. We should have supposed that local associations of tenants might do better by themselves. What we should like to see would be a real movement, not merely among tenants of local authorities but among the general public and especially among councillors themselves, which would put the principle of ordinary human freedom above the desire of some persons to enforce drab harmony. It may be partly the result of successive Town and Country Planning Acts ; it may be due to deeper causes ; it may be due to a general indifference to freedom for its own sake, such as one finds in the realm of film censorship and in the control by local authorities of music hall gags. As we have said before in other contexts, the ordinary Englishman is quite ready to talk about freedom, and quite ready to condemn any assault on freedom when it takes place in another country. He would resent attempts in this country by any person in authority to stop his freedom to grumble at what he does not like, but he is singularly uninterested in practising liberty of action in everyday affairs. Councils have power, as the Housing Acts and other statutes stand, to do a great many things which private landlords can not do ; it is for tenants themselves to create a public opinion which will ensure that councils do not crush out their individuality.

Candidates and Religion

It is a long time since we came across a query on the subject of the religious beliefs of a local government employee ; many people besides ourselves will have been surprised to see that a question on this subject was raised, when the town council of Lewes were examining the qualifications of candidates for the vacant appointment of town clerk. It is well enough known that there are parts of the kingdom (or there were till lately), in which it was necessary for obtaining an appointment that a person should belong to a certain sect, or at all events that he should not belong to the Church of England or the Church of Rome, and even that a banking company could not hope to obtain the position of treasurer to a local authority unless its local manager was of the correct religious complexion, conforming to that of the council and most inhabitants of the district. But this qualification, or disqualification, for appointment was not commonly stated in the council chamber ; it was understood by all. It is a measure of the progress made, towards regarding religious convictions as irrelevant to daily life, that an alderman should say a man was chosen " not on the grounds of his religion but on the grounds of what he can do for Lewes, and his abilities for serving the town. It is ridiculous to bring in religion." It is, indeed, significant that this instance, where a councillor raised the matter openly at a council meeting, should have been regarded as peculiar, and a fit subject for mention in the London papers. Whether it is better that religion should be dealt with tacitly by general consent, or should come out into the open, is (no doubt) a question of opinion ; one advantage of treating it as secret is that greater opportunities are given to persons who do not parade their intimate feelings in the public eye and ear. It is certainly repugnant to the normal feelings of the normal man today, that a candidate for any office or employment should be asked about his religious beliefs. Most people agree with Disraeli, that all sensible men have the same religion, but no sensible man will say what that religion is. This is a typically English approach. Naaman the Syrian bowed down in the course of duty in the house of Rimmon ; so long as the town clerk is willing to accompany the mayor to the parish church (or occasionally elsewhere) at the accustomed times, nobody in the twentieth century expects him to emulate the early Christian martyrs, and decline to perform this ritual homage. So long as there is general understanding of the matter it is just as well to leave it there. Certainly we have no desire, and imagine that most people in local government have no desire, to see an inquisition into people's private beliefs and personal practices, established as one of the qualifications for local government appointment.

SUPERVISION WITHOUT SANCTIONS

[CONTRIBUTED]

The Children and Young Persons Act, 1933, gave to juvenile courts the power to make supervision orders in respect of children and young persons found by them to be in need of care or protection or beyond control (ss. 62 and 64). Supervision is for a specified period not exceeding three years and, in nearly all cases is exercised by probation officers. The probation officer's duty is to visit, advise and befriend and, where necessary, to find suitable employment (s. 66 (1)).

At any time while the order is in force and the person subject to it is under 17, he may be brought before the juvenile court by the probation officer in his own interests. The court may then either send him to an approved school or commit him to the care of a fit person (s. 66 (1)). Although the court is solely concerned with the interests of the child or young person with whom it is dealing, the effect of this provision is to give an effective sanction. The supervision order means something since it can be enforced and the refractory juvenile is well aware that this is so.

Once the age of 17 is reached, however, the sanction no longer applies. A young person of 17 or over cannot be brought before the juvenile court in his own interests. This is so, even though the supervision order does not expire until he is nearing his twentieth birthday.

It is true that where amendment or discharge of a supervision order is proposed, the person subject to it may be brought before the court even if he is over 17 (Children and Young Persons Act, 1938, s. 4 (2)). But effective amendment where medical treatment is not being considered, can only mean the insertion in the order of a condition of residence in a hostel or training home, and for this the consent of the young person himself is required (Criminal Justice Act, 1948, s. 74 (1)). In any case, residential requirements cease to have effect at 18, and approved homes and hostels are precluded from receiving persons subject to supervision orders who are older than 17 years 6 months (Approved Probation Hostel and Home Rules, 1949: r. 8 (3) read in conjunction with r. 10).

The probation officer, then, where his charge under a supervision order has reached his seventeenth birthday, is often in a real dilemma; for he has no effective means of enforcing the order. Many young people are well aware of this and some, on reaching the age of 17, have been known to inform the probation officer of it in no uncertain terms. It is obvious that persons of this type are not going to consent to any condition of residence and, with no effective sanction, they can do exactly what they like, even though they are still subject to a court order.

More supervision orders are made in respect of females than males and it is particularly the refractory adolescent girl who presents the most difficult problem. How bad this may be for the community as well as for the young person herself may be judged from an illustrative case:

Alice was 16 years 5 months when she was brought before the juvenile court as being in need of care or protection and placed under supervision. Her stepfather had been convicted of an indecent assault upon her and had been sent to prison. She was a difficult girl and did not keep any job for longer than a week or two. However, her behaviour was not sufficiently bad to warrant her being brought before the court in her own interests. Within six months, the stepfather had returned home. A week after her seventeenth birthday, Alice called on the probation officer and implied that she was well aware that she could now behave exactly as she liked and that the probation officer could take no action. Shortly after this she began to leave home for weeks at a time. She was consorting with undesirable companions and not working. Five months later, the probation officer found her mixing promiscuously with coloured service men. Later still, she was informed by the hospital almoner that Alice was in hospital having been the subject of an illegal operation. At present—and she is not yet 19—she is living with a man and is again pregnant. The supervision order still has some months to run but it is quite ineffective.

It must be realized that a case such as this reflects not only upon the dignity of the court, but upon the entire probation system; for the man-in-the-street does not easily distinguish between probation and supervision orders; he merely sees that the authority of the probation officer is being disregarded.

It may be argued that such cases are exceptional. It is to be hoped that they are. In this connexion, the results of an inquiry into supervision orders in respect of girls in an area near London are interesting. Seventy supervision orders expiring after the seventeenth birthday were made during the past three years and with 15 of these (21·5 *per cent.*), supervision proved difficult or ineffective. If these figures are typical of the country as a whole, the problem is clearly something more than trivial.

It is easier no doubt to draw attention to the problem than to find a remedy. Some reformers would advocate amendment of the law and there are others who favour a change in the practice of juvenile courts.

Those who demand legislative changes usually ask for it to be made possible for young people to be brought back before the court in their own interests at any time during the period of supervision, even if over 17. They do not, however, find it easy to recommend effective powers for the courts in these cases. Some would like to see fresh legislation giving the power of committal to an approved school at least up to the age of 18; but it is a matter of conjecture whether new institutions for this higher age-group are really justified.

To many people it seems a change in the law can only result in a line being drawn at a higher age-level; similar problems will arise, it is felt, wherever the line is drawn. It is these who would prefer to see a change in the practice of juvenile courts. They suggest that justices could avoid the problem altogether by refusing to make supervision orders which expire after the age of 17. They urge that either an approved school order be made or no order at all, where the young person is nearing his seventeenth birthday. They tend to forget, however, the majority of cases in which supervision of the older youngster is successful. Still others suggest that where supervision orders are obviously ineffective, they should be discharged. Not only would this seem unjust to those who are behaving well, however, it would provide a direct incentive for them to cease to behave well.

It may well be that the nearest approach to a solution lies in a combination of wise decisions by the magistrates and wise handling by probation officers. With all the wisdom in the world, however, it appears that there must still remain a minority of cases where the authority of the court is openly disregarded—and nothing whatever can be done about it. F.V.J.

OBSCENE PUBLICATIONS

We dealt at pp. 5 and 213, *ante*, with some legal aspects of the agitation that had sprung up at Brighton and elsewhere, for censorship, in a wide or popular sense of that word, of picture postcards. We concluded that there are effective powers of suppressing any that are found to be indecent or obscene, but that public authorities (either elected bodies or police) who dabble in the matter are as likely as not to make themselves look foolish to no purpose.

Much more serious is the problem of the censorship of books, again using the word in a broad sense, as it is used in daily conversation. In the middle of this year a number of letters were printed in *The Times*, beginning with one on June 5, 1954, from Mr. Graham Greene, who expressed uneasiness about possible results of increased activity by the Director of Public Prosecutions and police authorities. Those letters set forth nearly every point of view, and supplied the public with information about the law and practice in other countries ; they served also to show that the problem of literary and artistic censorship by the machinery of prosecution (combined with confiscation at the ports) is less simple than is commonly supposed by the advocates of restriction on the one hand or freedom on the other. One is often told that in England there is no censorship of the printed word, and a favourable contrast is drawn in this particular between our own country on the one hand and some continental countries on the other—and lately with the America of Senator McCarthy and with the Republic of Ireland, where it is said that literary censorship under ecclesiastical auspices has gone to extreme lengths. This is, however, largely a matter of words ; it may be called a matter of national hypocrisy, to pretend that England knows no censorship. True, it is not possible, by submitting a book or newspaper article to any authoritative body in advance of publication, to obtain a ruling that it must not be published, with the corollary that if no such ruling is given it may lawfully be published. Some publishers, writing to *The Times*, have suggested that their business would be helped if they could resort to a body or an institution of this sort, and when a book is brought before the courts on the ground of alleged obscenity it is almost common form for defending counsel to allege that its publisher would have been only too glad to receive a ruling in advance, but if any attempt was made to establish such a body we are sure that strong objections would be raised in the name of " freedom." It is also commonly alleged by counsel, as a matter of complaint, that the police authorities throughout the country have periodically received from the Home Office lists of publications which have come upon the market, and have been held by magistrates to be obscene or might in the Home Secretary's view properly be brought before the magistrates with a view to their condemnation as obscene. It is not an exaggeration to say that this, which the Home Secretary has admitted is the practice (*ante*, p. 458), is a form of hidden censorship, but from the point of view of the central government (so far as the central government feels impelled to interfere) it is hard to see how the confidential character of these communications could be abandoned. If the list of challengeable publications were to be issued to the trade, as is almost invariably suggested by the defence in cases where the police admit having had it from the Home Office, *carte blanche* would in effect be given to the publications not upon the list, which might be equally open to objection, and it would mean that there would at least be a strong bias towards condemnation, if a publication appearing in the list were brought before the courts. If a magistrate or bench had the moral courage to refuse to follow the lead given, a fictitious value would attach to the book, from the mere fact of its being on the list. Not least, making the list public, as was suggested in the House of Commons at p. 458, *ante*, would expose the Home Secretary in Parliament and the press to constant challenge, on the ground of his having included some work which the challenger regarded as innocuous and (probably more often) on the ground of his not having included in his *index expurgatorius* some work to which the challenger thought objection should be taken.

There are four questions which are logically separate, and all need to be considered. First, ought the criminal law to be used to eliminate, or keep within bounds, obscenity in printed works and pictures ? Second, what ought to be the degree of obscenity at which the law steps in : indeed, it can be asked, what is meant by the word " obscene " ? Third, does English law today step in at the right point ? Fourth, and in practice not the least important, are the methods of applying legal restrictions satisfactory in English law today ? If the first question receives the negative answer which commends itself to some philosophers and artists, the other three do not arise, but in the England of today it is hardly conceivable that authors (or pictorial artists) would be allowed freedom to exhibit publicly whatever they thought fit. Certainly, a limited number of writers and thinkers, professional critics and creative artists, have protested ; occasionally, there has been evidence of support from educated opinion outside professedly literary circles, but small sympathy has been shown by the man in the street for suggestions that freedom of publishing and printing, which has been erected (at least nominally) into a fetich in the sphere of politics, should extend into the sphere of writing about sexual matters —which is what obscenity is understood to mean, in modern English.

This can be accounted for in different ways.

Most influential at the moment has been a spate of fiction recommended to possible customers as " tough," supposedly based upon American models, although much of it has been written by Englishmen and produced in England. Writing in *The Times* of July 12 the borough librarian of Willesden referred to it as " completely worthless, written for morons by writers whose sole aim is commercial gain." We are informed by a legal correspondent who has had occasion to peruse much of it that the " sex " motive is not invariably dominant ; in fact less so than in some ordinary novels of the day, and that sex when introduced is as often sadistic as seductive. But the " tough " book is normally put on sale with a glossy cover, bearing a picture of a woman in some suggestive posture, more or less unrelated to the contents. Puritans have accordingly drawn the conclusion which the publishers desired should be drawn at first sight by those who read for pleasure, and the repressive instinct is thus brought into play, to reinforce the fear that young people will be corrupted by reading about violence—just as in Victorian times the " penny dreadful " was blamed for juvenile delinquency. If this cheap and mostly nasty fiction had not come into fashion, a good deal of the present impetus towards censorship by the police would have been lost, and yet what the Willesden librarian says here about moronic fiction is not so very different from what metropolitan magistrates have said about the writings and pictures of D. H. Lawrence, as will be seen later in this article, or what the literary editor of *The Pink 'Un* said about James Joyce. *Quis custodiet* the Willesden standards ?

A second cause for complacency about the legal position among the great mass of the educated but not literary public is that in this country the police, and Home Secretaries when they have been active in stimulating police activity, have commonly, and apart from a few conspicuous exceptions, acted with discretion, at least for a generation past. A writer in *The Times* in June recalled how an English translation of *La Terre* in 1888 led to prosecution and imprisonment, but a new translation has appeared this year which is at the moment on sale in the shadow of the Law Courts and the Temple. Zola is still, we suppose, a "modern," but since *R.* v. *Thomson*, *infra*, more than 50 years ago, the authorities have almost never sought to suppress works that had already become "classical," in English or some other language, and have seldom attacked even modern works that would in a broad sense be regarded as literature, or as a contribution to the sum of human knowledge.

True, by way of exception in the field of recognized literary classics, there was this year the Swindon police attack upon Boccaccio, and in the scientific field another provincial police authority tried unsuccessfully at Doncaster (*The Times*, March 20, 1954) to suppress the new volume of the "Kinsey Report" (*Sexual Behaviour in the Human Female*) which had already been largely published as a serial by newspapers in this country and abroad; which was, more or less simultaneously, being ordered for public libraries in London, and is cited as a work of authority by Canon Warner in his *Threatened Standards*, just published from the Church House, Westminster. And, as regards non-scientific works dealing with a medical topic in the guise of fiction, there was the sensational case of *The Well of Loneliness*, 30 years ago, which caused more serious qualms (perhaps) than any interference by public authorities with modern literature. In that case the defence were ready to produce some 40 witnesses, including magistrates and clergy, to state that the book was not obscene, but the Chief Magistrate, quite properly as the law stands, held himself precluded from hearing that evidence. He found the book to be obscene, not on the ground of language (for there was no coarseness of expression) but on the ground of its theme, which was a female psychological condition well enough known to the medical profession. The book was written by a woman who had previously had novels before the public for some years, and was published by a firm of unblemished character: had it been in form a scientific treatise, objection could hardly have been taken, but the case shows that it can be dangerous to present scientific or psychological problems (when these have a sexual aspect) to the ordinary public.

It is a curious and indeed a humorous feature, comparable with the case of *La Terre*, if in a humbler station, that *The Well of Loneliness* has been reissued by a different publisher; is now displayed openly for sale in ordinary bookshops, and to be found on the shelves of the public libraries maintained by the London borough councils, and, for all we know, is in provincial public libraries as well. The learned Chief Magistrate's refusal to admit expert evidence by literary critics, which set a precedent that Mr. Mead avowedly followed 10 years later when dealing with the analogous case of D. H. Lawrence's paintings, reads strangely when compared with his own successful argument as counsel for the defence in *R.* v. *Thomson*, *infra*, but it has lately been supported by the Scottish decision in *Galletly* v. *Laird* and *M'Gown* v. *Robertson* (1953) S.C. (J.) 16, quoted with approval by Lord Goddard in *R.* v. *Reiter and Others*, *infra*, at p. 263 of our report.

Despite cases of this sort, we do not think that in this country the doubts felt about the fundamental issue, whether it is right for the law to interfere at all, have any greater influence with the average man than with the lawyer, who is scarcely influenced by doubt. As we said some months ago in speaking of the censorship of films, the ordinary Englishman, however much he likes to talk of freedom, would not willingly accept it. If he felt himself strong enough to bear it, he is sure that his neighbours must be rescued from their own evil thoughts and impulses. So also about books. One of the writers in *The Times*, by way of a dig at Mr. Graham Greene, asked why "non-Catholics" should not be shielded by the criminal courts from "dangers" against which Mr. Greene and other Roman Catholics are shielded by their Church. Strange doctrine indeed, to be seen printed in the tongue that Milton spoke—doctrine that would be scorned in England in any context except that of sexual expression, but is (in that context) not far from what is accepted as a matter of course. The forces that are determined to retain censorship in its present form, while commonly denying it that name, are able to point to the prurient and near-pornographic books sold to illiterate readers, and base on the existence of this trade an argument which the unlettered public finds convincing, for retaining the common law misdemeanour and the Act of 1857. (For these, *see* the next following paragraph). In Sir Frank Newsam's book about the Home Office, which we reviewed at p. 549, *ante*, it is stated as an axiom that "All Governments have to guard against the corruption of public morals by obscene publications." For practical purposes, therefore, we shall in this article assume that control of the printed word and the painted or printed work of art will be continued, by the machinery of criminal proceedings. The problem is how to adjust this control to twentieth century requirements.

The second question posed above, *viz.*, at what point ought the law to step in, cannot be solved with the precision usually expected of the criminal law. We shall be obliged to devote to it a large part of this article, and in so doing we shall find that it merges into the third question, because discussion of what ought to happen can hardly be disentangled from illustrations of what is happening from day to day. The fourth question, about methods, is comparatively simple, and in course of our examination of the topic we shall be impelled to suggest some improvements in the methods which are followed. It may, however, be worth while at this stage of this article to say that, in England, the law can be invoked in four ways. There can be an indictment for the common law misdemeanour of publishing an obscene print or painting, and the case is then heard by a jury. There have been notable instances of such prosecutions this year. More often, the case comes before magistrates under Lord Campbell's Act, the Obscene Publications Act, 1857, under which the procedure is unique in English law. Grave objection can be taken to some features of procedure under that Act. Thirdly, the executive government can intervene to prevent the introduction into this country of a book or picture from abroad; the legality of this process is not doubted, and in this case the law does not (it seems) give to the author, artist, or owner of the property any certain method of redress: in the United States, as we shall see, redress is granted by the courts and some of the most important judgments have been given in relation to seizure by the Customs of books in course of importation. Fourthly, under s. 11 of the Post Office Act, 1953, there is power to detain books or pictures in the course of post within the country, and to prosecute, but this is not important for our present purpose.

Although the publication of an obscene book or picture is a common law misdemeanour (that is to say the offence does not arise, as is commonly supposed, under the Act of 1857) it was not always an offence, even at the common law. In *R.* v. *Read* (1708) 11 Mod. Rep. 142, it was held

not indictable, and to be cognizable only in ecclesiastical courts. In *R.* v. *Curl* (1727) 2 Str. 788 it was held for the first time that there was an indictable offence. Some detailed information on these cases will be found in *R.* v. *Hicklin*, *infra*. We have no doubt that the Star Chamber, which exercised an active jurisdiction over printed matter for some other purposes, notably for restraining libels, would have had authority to punish obscenity, had it been moved to do so by the Church, but we have found no record that it ever thought this aspect of censorship worthy of attention. The references to the Star Chamber in *Aeropagitica* suggest that it had not, which may have been as well for Shakespeare and Ben Jonson, just as it was fortunate for the development of letters after the fall of the Star Chamber that the common law courts did not yield to the temptation to follow Prynne or Collier instead of Milton.

The leading and most often quoted exposition of the present English law is to be found in the judgment of Sir Alexander Cockburn, then Chief Justice of the Queen's Bench and afterwards the first Lord Chief Justice of England, in *R.* v. *Hicklin* (1868) L.R. 3 Q.B. 360 (*alias Scott* v. *Wolverhampton Justices* (1868) 32 J.P. 533), and is as follows : " The test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall. Now, with regard to this work, it is quite certain that it would suggest to the young of either sex, or even to persons of more advanced years, thoughts of a most impure and libidinous character."

This accepted criterion has been attacked, and not unreasonably, because it takes no account of literary quality, or of the intention of the author, or indeed of the possibility that a work dealing with a sexual topic may have educational value or inculcate a moral lesson. The latter part of this criticism is not wholly just, because in some cases the courts have recognized that a publication which would be regarded as obscene if it occurred elsewhere than in a legal or scientific treatise may be allowed to pass in such a treatise. By an interruption in the course of counsel's argument, even Lord Chief Justice Cockburn admitted that a person is justified in including " obscene " text and pictures in a medical treatise, and, as we shall see later, other judges have admitted the justification for publishing such text and pictures " if their exhibition or publication is for the public good as being necessary or advantageous to religion or morality, to the administration of justice, to the pursuit of science, literature or art, or other objects of general interest." This might even justify one of the often quoted oddities of this branch of law, when in a certain city the police brought before the magistrates, as an obscene publication, a book which was at the time prescribed by the local university as a set book for students of English literature. The law is however venturing on shaky ground, when it says not merely that the danger to persons who are open to corrupting influence is to be regarded, but also that because of that danger a book shall be forbidden to persons outside the university (however learned and mature those persons are) when it may, in fact must, be studied in detail by the undergraduates. The distinction appeared in a startling passage in the argument of counsel against the *Decameron* at Wiltshire Quarter Sessions (*The Times*, September 16, 1954) when he said that that work might properly be available in the public library, but not in a shop in Commercial Road.

The case of *R.* v. *Hicklin* was a very odd foundation upon which to erect a vast structure of learning and of controversy for a century ahead. The seller of the book was not an author or publisher, nor in any sense addicted to pornography : he was a prosperous Black Country metal broker, with pronounced religious convictions, who put the impugned pamphlet on sale in his own town as an effort to strengthen Protestant feeling, in particular against the proposal (now forgotten by everyone except historians and Irishmen) that Maynooth should receive a grant from public funds. The pamphlet had been published in London, and sold elsewhere, without legal intervention. Its publishers were not a commercial body, but the Protestant Electoral Union. Mr. Scott sold the pamphlet at the price he paid for it, not receiving a discount or making any profit—he must thus have been out of pocket, by the cost of carriage and distribution. The authors of the pamphlet had collected extracts from the works of certain theologians, written in Latin for the instruction of Roman Catholic priests, in preparing them to hear confessions. The opinion that only Satan can rebuke sin ; the good do not know enough, is not shared by the Church of Rome, and the theologians in question—the authenticity of the extracts was not disputed by the prosecution—had set out to convey to the priesthood such information about sexual practice and malpractice as the learned authors thought would enable them to cope with anything they could hear from the most abandoned penitents. The original works were not intended for reading by the unenlightened multitude, from whose perusal they were effectively withheld, even if a copy fell into their hands, by being written in a learned tongue. But the Protestant Electoral Union, holding an opinion not uncommonly found outside the Roman Church, namely that the priest is not content with what is told him but puts ideas of evil into the minds of those making confession, jumped to the conclusion that the Latin treatises were designed to show confessors how to introduce new sins to their penitants, and as part of their No Popery activity they caused the books to be translated. The Latin text was correctly reproduced, followed by an English version which, though said to have been a free translation, was not said in the report of the case in the Queen's Bench to have been dishonest or substantially misleading. It was the dissemination of this English version (and the whole point of what was done was to make it widely known) that led to Mr. Scott's prosecution. Mark how different were the facts in this leading case from those occurring in the tawdry prosecutions with which the courts are now familiar. In its original shape the Latin text could not possibly corrupt those persons whom legislatures and courts throughout the English speaking world profess themselves anxious to protect, namely persons open to immoral influence, especially young persons, for not one in a million of such persons could have read it. In its English version it was not published for pecuniary profit, which is one test the courts have used (though it is a test hard upon the honest publisher, who is not in business for his health), nor was it " dirt for dirt's sake " to use a phrase now common. In so far as it was " dirt," it was meant to prove the Roman priesthood to be a dirty-minded body, and the Judges in the Queen's Bench all admitted that it was published in English for a political (or what Mr. Scott believed to be a religious) purpose.

(*To be continued.*)

ORDER XXX FOR STRENGTH

(1)

O Master, you're kindly and careful and just
Be not, I beseech you, unduly robust.

(2)

They've carried the matter much too far—
I've met a Robust Registrar. J.P.C.

OCTOBER, 1954

Returning from the holidays I find with consternation
They've very greatly changed the Law during the Long Vacation.
J.P.C.

LOCAL AUTHORITIES AND THE HOUSING REPAIRS AND RENTS ACT, 1954

By "ESSEX"

PART I. SLUM CLEARANCE—CIRCULAR 55/54

This exceedingly important Act, which is, without exaggeration, a certain bet for a place in the statute book Derby of the century, mainly affects local authorities in three distinct ways.

Most important are the amendments to their slum clearance and allied duties, heretofore based almost exclusively on the Housing Act, 1936. Then, equally important and far reaching, as far as the man in the street is concerned, but not likely to cause quite so much work at the town hall, there is the duty of advising members of the public on their position under the sections of the Act providing for possible increases in the rents of dwellings which the landlord has kept in good repair.

Thirdly, though on the same subject as the last, there is the duty of inspecting the state of repair of rented houses on request, in order that the continuance, or otherwise, of the repairs increase may be determined.

Slum clearance—advice—inspection. That is to say, the medical officer of health, the town clerk, the chief sanitary inspector.

There are, indeed, a number of sections of the Act which do not fall into these headings; some of them make changes in the law which will oblige chief officers and others to study the whole Act in detail. Some of these miscellaneous matters come within the scope of this article and other headings will, therefore, have to follow the three main ones already mentioned, but some are not touched on. To give an example, just as a warning that reading of the Act itself must not be skimped: under s. 43 of the Act, landlords lose their right to obtain possession of a dwelling-house to which the Rent Acts apply, without having to provide alternative accommodation, merely because they require the house for an agricultural worker.

THE MEDICAL OFFICER OF HEALTH SLUM CLEARANCE

The law as it stood before the passing of the Act under review was based on Part III of the Housing Act, 1936. Indeed, it still is, but amendments now made change the colour of the corner stone of the arch. Emphasis was placed on immediate clearance of the area concerned. "Within six weeks" was the requirement applicable both to local authorities (who had compulsorily purchased part of a clearance area) and to private owners whose properties had been made subject to a clearance order. Emphasis is now placed on retaining houses in use until the appropriate time for rebuilding. "A standard which is adequate for the time being" is the relevant phrase and the power to retain extends not only to houses which are of that standard but also to houses which can be made so without undue expense.

It will be recalled that the old procedure was as follows. The medical officer of health made a survey and followed it by an "official representation" to the council. The council, if satisfied on various points and that all the houses in the area were unfit for human habitation because of disrepair or sanitary defects, or were dangerous or injurious to health because of bad arrangement or the narrowness or bad arrangement of the streets, and that the most satisfactory remedy was their total demolition, by resolution declared the area a clearance area. The local authority dealt with the area, in each case subject to the Minister's confirmation, by compulsory purchases or by clearance orders. Subject, in the latter case, to a temporary right of appeal, the demolition, as has been stated, had to follow within six weeks.

The Act of 1954 begins with a requirement that a survey, to look for unfit houses or for clearance areas, and a report to the Minister, is to be made by July 30, 1955, unless extended on application. The report is to be accompanied by proposals for dealing with the problem. The proposals are to be made on a form appended to circular 55/54, which makes it clear that the Minister does not expect more than an estimate of the total number of unfit houses in the authority's area, and of the period which the authority think they will need to secure the demolition of all the houses, together with the authority's programme of action in relation to these houses during the next five years.

Section 2 of the Act gives the power, which has been referred to, to keep in use and patch up houses in the clearance area whose standard is or can be made adequate for the time being. Other houses may also be retained if, for instance, they are needed to support houses being retained under this new power. This power relates to houses compulsorily purchased by a local authority but, if the authority can obtain a tenancy or a promise of one, an equivalent power can be inserted in a clearance order. And as the request for a tenancy can be accompanied by a suggestion that the alternative is a compulsory purchase order it will be seen that the power is as comprehensive as is necessary, even though there appears to be no power of compulsorily acquiring a tenancy.

Indeed, to complete the circle as far as houses in clearance orders made before July 30, 1954, are concerned, the owner if he so wishes may have the same facilities. The local authority may license the appropriate person to let a house which can be made adequate for the time being. The licence, says s. 6, is to specify the number of occupiers, the rent, and conditions as to repairs and any other matters the authority think necessary. The licence must be revocable at the authority's pleasure, and without the Minister's sanction cannot extend beyond three years. A licence suspends the running of time in regard to the six months limit after the declaration of a clearance area, within which compulsory purchase orders must be submitted for the Minister's confirmation.

Section 9 of the Act provides a new definition of fitness for human habitation, replacing the much criticized definition in s. 188 of the Housing Act, 1936. (It is also to be used in connexion with repairs increases provided for in Part II of the Act: *see* below).

Unfortunately, while admittedly an advance, the new definition is already subject to criticism. It lists eight matters to which regard is to be paid, and says a house shall be deemed unfit "only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition." Thus, without doubt, whether a house is unfit is still a matter of opinion but, what is worse, it is not clear whether a house can be unfit by the cumulative effect of the defects under various categories, or whether it has to be so defective under one (at least) of the categories that it would still be unfit if the house were perfect under all but that one category.

Among other technical alterations to the law of compulsory purchase, s. 14 authorizes an authority to take possession after a compulsory purchase order (and before completion of the purchase) by serving a notice on the occupiers setting out the future terms of their occupation.

THE MEDICAL OFFICER OF HEALTH
THE INDIVIDUAL HOUSE

Under the Act of 1936 the local authority had three powers of dealing with individual houses. They were not alternatives, but complementary. If the house could be repaired at reasonable expense, the owner was ordered to do so, and if he defaulted the authority did the work at his expense. If it could not, the house had to be demolished if it was all unfit, but if only some rooms were unfit a closing order had to be made. Until the Local Government (Miscellaneous Provisions) Act, 1953, a house to which a demolition order was appropriate could not be made subject to a closing order, even if it was necessary as a support to an adjacent, fit, house. From 1953, however, houses which it was inexpedient although proper to demolish, having regard to the effect of the demolition on any other house or building, could be made subject to closing orders. A local authority intending to make either a demolition or closing order had to give those concerned at least 21 days' notice and hear offers to do work or to use the place for a purpose other than habitation. If offers, in the first case, were not made, not accepted, or not observed, then the authority had to make a demolition order and enforce it. In the second case, unless offers to do work were given, accepted and observed, a closing order prohibiting the use of the unfit rooms for any but a purpose approved by the authority had to be made. The closing order was lifted if the rooms were made fit, but a demolition order once made could not be revoked. (Save that, as with a repair notice and a closing order, there was a right of appeal to the county court and save for a temporary power, in part continued from the Housing Act, 1949, to review certain outstanding demolition orders.) Now, by s. 5 of the new Act, demolition orders may be suspended, if the owner offers to do works to provide " one or more houses fit for human habitation " and the suspension can be extended so long as the works are begun and advanced with reasonable speed until, on completion, the orders are revoked. Section 3 enables authorities to acquire and patch up an individual unfit house instead of making a demolition order. Provisions for notice of appeal against a determination to acquire are the same as for a demolition order, but after the determination has become effective the house may be acquired by agreement or compulsorily. The basis of compensation is the value of the land as a cleared site.

Houses subject to demolition orders made before July 30, 1954, can be licensed under s. 6, as for houses in clearance orders, if they are adequate for the time being. On the expiry of the licence in this class of case the authority may acquire the house under s. 3 above, as if the demolition order had never been made.

The new definition of fitness, in s. 9, applies to individual houses as well as to houses in clearance areas.

Finally, s. 10 now enables a person who has been put to expense to comply with a repair notice under s. 9 of the Act of 1936, unless there is a charging order in force or pending, to pass on to his lessor (and he, in turn, to his) such part of the amount as may, in default of agreement, be determined by the county court.

MEDICAL OFFICER OF HEALTH. HOUSES LET IN LODGINGS : OVERCROWDING

The power in the Act of 1936 to make byelaws for lodging houses is repealed and replaced by a power to serve a notice requiring specified works to be carried out, or in default the number of occupants to be reduced (and the Rents Acts are lifted for the purpose of obtaining possession). The power arises where having regard to natural lighting, ventilation, water supply, sanitation, or food storage and cooking, etc. (some of the matters in the s. 9 definition of unfitness) the premises are not fit for the numbers in them. Failure to comply with the notice is an offence : penalty £5 and £2 a day after conviction.

If the house is not in itself defective, but the numbers are excessive, s. 12 provides the remedy. It takes the form of a notice stating the proper numbers and pointing out that a continuation of the excessive numbers will be an offence. The notice may be varied at any time, or withdrawn, and the offence ceases accordingly. The fines are the same as before, and in both cases appeal may be made to the county court.

These powers relate to houses let to members of more than one family and it is expressly stated that the powers of the principal Act, dealing with overcrowding in separate dwelling houses, are not prejudiced.

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MISCELLANEOUS INFORMATION

COMPANIES GENERAL ANNUAL REPORT

The General Annual Report for 1953 on matters relating to companies has just been issued by the Board of Trade.

The introductory paragraphs describe the more important company matters dealt with by the Board of Trade. These include the progress of registrations; the number of companies on the Registers; the winding-up of companies; the administration of the Companies Act under various provisions; appointments of inspectors to investigate the affairs of companies; and prosecutions by the Board of Trade. The general information is supplemented by detailed statistical tables for comparison with previous years. A list of orders and regulations made under the Act is also included.

The Report shows that 286,089 companies were on the Registers in Great Britain on December 31, 1953 (compared with 277,664 at December 31, 1952). Of these, 16,769 (16,875) were public companies and 269,320 (260,789) were private companies. During the year 1953, 13,329 (12,296) new companies were registered; of these 13,189 (12,170), comprising 21 (21) public and 13,168 (12,149) private companies, were registered with a share capital, the total capital of the companies so registered being £87·3 million (£52 million). During the year, 4,906 (4,649) companies were dissolved or struck off the Registers, and winding-up proceedings were begun in 3,458 (3,323) cases of which 430 (445) were compulsory liquidations.

OPENING OF ADMIRALTY CONSTABULARY TRAINING CENTRE AT RISLEY

The first centre for training members of the Admiralty Constabulary has been opened at the invitation of the Admiralty police authorities by one of H.M. Inspectors of Constabulary, Mr. F. T. Tarry, C.B.E., at Risley, New Warrington. This force, now over 3,000 strong, is under the control of Commander G. C. H. Clayton, O.B.E., R.N. (Rtd.).

Its personnel are formed into six areas with respective headquarters at Chatham, Portsmouth, Plymouth, Warrington, Rosyth and Belfast. Operational responsibilities are spread over dockyards, naval stations, armament stores, victualling depots and scientific research stations throughout England, Wales, Scotland and Northern Ireland. As the constabulary is also responsible for fire fighting, except at naval air stations, highly mobile and well equipped brigades are maintained. The force work closely with the civil police, the Customs and Excise authorities and other similar bodies.

Hitherto elementary training was given at area headquarters. Now the students at Risley will be trained by experts in anti sabotage measures, principles of C.I.D. investigation with an introduction into the scientific aspects of criminal inquiry duties; law and the technique of policemanship. Sixty men at a time will be in residence attending courses of six weeks' duration.

Men are recruited mainly from the Royal Navy, Marines, and other service units, if they show signs of the qualities required of policemen. Their uniform is similar to that of the civil police, except for tunics buttoned to the neck, and caps. Badges and buttons have the Admiralty emblem, the foul anchor.

Each area is commanded by a senior police officer whose staff includes experienced detectives. The C.I.D. is co-ordinated by Major H. T. Boddington, O.B.E., assistant chief constable (crime) and director of training. Major Boddington was formerly with M.I.5.

In charge of the Risley Training Centre is Commandant H. S. Kemble, M.B.E., formerly deputy chief constable of Southampton. He is assisted by a staff of six permanent instructors including his deputy (Inspector F. J. Phillips, B.E.M.). In addition lecturers in special subjects visit the Centre.

The opening ceremony, on September 28, was also attended by Mr. F. W. Mottershead (Under Secretary, Establishments, Admiralty); neighbouring police chiefs; Mr. F. J. W. Legg, superintendent of the Admiralty Storage Depot, and the Admiralty superintendent civil engineer who designed and planned the school, Mr. F. G. Dickenson of Liverpool.

STURMINSTER R.D.C. ACCOUNTS, 1953/54

Sturminster rural district is situated in the northern part of the pleasant county of Dorset and includes in its area part of the Vale of Blackmore. Its situation, however, is not the only factor likely to arouse the envy of other authorities: not many are able to claim, as Sturminster does, that their house building programmes are practically completed. This important news is given by the chief financial officer, Mr. J. E. G. Harris, A.C.I.S., in his report on the R.D.C. accounts for 1953/54.

The population of the district is 9,300 and rateable value £47,000: a penny rate produces £184. In this frame the picture of housing achievement is of considerable merit, the number of houses built having reached a total of 1,074, involving a capital cost of £1,427,000. Mr. Harris points out that when the council considered their estimates of income and expenditure for the year it was evident that increases in rents and other income would be unavoidable: he adds that the decisions taken at that time have secured the desired results of balancing the housing revenue account, reducing the rate fund contribution to the Water Undertaking and increasing the balance on the general rate fund. Rents now average 15*s.* 5*d.* a week and in addition to a small credit balance on the housing revenue account, the repairs fund totals £7,850. The water deficiency has been reduced to £2,600 and the general rate fund credit balance increased during the year by £5,000 to a total of £7,100.

Expenditure on general account totalled £27,000, the chief items being in respect of sewerage and sewage works (£9,200), house refuse removal (£2,800), housing rate contribution (£4,000), and waterworks deficiency (£2,600).

The district is a losing authority in relation to the general exchequer grant, the sum included in the county precept to pay capitation grants exceeding the amount received by approximately a 3*d.* rate.

We congratulate the council and their chief financial officer on a sound financial position.

JUSTICES OF THE PEACE ACT, 1949 (COMPENSATION) REGULATIONS, 1954

These regulations (S.I. No. 1262), which come into force on November 1, are of interest to clerks of the peace, justices' clerks and their assistants. They provide for payment of compensation for loss of office or diminution of emoluments caused by the abolition of separate commissions of the peace for certain areas, review of petty sessional divisions or grouping of clerkships, in consequence of the operation of the Act.

PLYMOUTH WEIGHTS AND MEASURES REPORT

As in most of such reports, we find a generally satisfactory state of affairs revealed in the report of Mr. H. L. Stevenson, chief inspector for the city of Plymouth, although he is not completely satisfied with the way in which some pre-packed articles of food are marked and sold.

There is a word of caution about meat, which may be noted by housewives: " Retail meat traders generally have complied with the regulation regarding a statement of the net weight to accompany meat sent out for delivery to purchasers. I should again emphasize, however, the inclusion of wood or metal skewers in the weight of meat charged for is an offence against the provisions of the Act. Where their use is necessary, they should be added after the meat has been weighed and priced."

It is satisfactory to read in this report that of 1,323 bags of coal weighed, only 37 (or approximately three *per cent.*) had minor deficiencies. As to liquid fuel, some discrepancies seem inevitable, and a small margin of error is allowed for, but the difficulties appear to be on the increase. Mr. Stevenson thinks that one factor may be the increasing number of sales of small quantities of fuel for use in the smaller types of internal combustion engines, in so far as there are no graduation marks below half-gallon on the indicating dials of many measuring instruments. Whether present tolerances might be amended to decrease the existing errors at present allowed on verification and inspection is a matter which Mr. Stevenson suggests might be considered by the Standards Department of the Board of Trade and the manufacturers of these measuring instruments.

There is a useful warning against the use of petrol for cleaning purposes in any room or confined space. If it is not possible to avoid this entirely, particular care should be exercised so as not to use spirit in any room where there is any coal, gas or electric fire in use, or any other naked flame in the vicinity.

MANCHESTER FINANCES

Manchester city council is renowned for its good administration and determination to avoid unnecessary expenditure. We think that the abstract of the city's accounts, and the financial summary of income and expenditure over the past 12 years, both recently published by the city treasurer, Mr. W. E. Mason, M.C., F.I.M.T.A., give within their 726 pages all the information which even the most energetic and economically minded member is likely to need.

This great city of 702,000 people spent on rate fund services during 1953/54 £17,769,000 and employed over 28,000 people. Rate levied was 23*s.* 6*d.* and as rateable value per head of population equals £9 12*s.* 6*d.* no equalization grant was received. It is interesting to compare the position in Birmingham where rateable value per head was £6 17*s.* 8*d.* and an equalization grant of £1,610,000 received. Rates paid per head of population are £8 12*s.* 0*d.* in Birmingham compared with £11 17*s.* 0*d.* in Manchester.

Manchester is one of an unfortunate minority of authorities whose ratepayers bear a greater share of costs than comes from the national exchequer, 59 *per cent.* of net expenditure being met from rates and only 41 *per cent.* from grants.

The financial position is obviously sound. The net revenue surplus at the year end amounted to £1,050,000, plant and equipment owned was valued at £506,000, and reserve and renewals funds totalled £326,000, including £125,000 in respect of the fire insurance fund.

Total net outlay on housing to March 31, 1954, was £37,400,000, against which loan debt stood at £30,900,000. Income from rents was £1,280,000 and the city ratepayers were called upon for subsidies amounting to £241,000. There was an accumulated surplus of £205,000 on the housing revenue account.

All three trading undertakings showed satisfactory surpluses on the year's working. £15,000 of the markets surplus was transferred in aid rates but on the transport and water undertakings the whole of the available balances were credited to reserve and renewals funds.

Net loan debt has reached the staggering total of £70m. and has been incurred for :

	£
Trading undertakings	22m.
Housing	31m.
Nationalized undertakings	5m.
Other services	12m.
	£70m.

It will be observed that only £12m. is non-productive debt.

The 12-year summary includes a number of good financial diagrams. An unusual and instructive one is that showing percentage movements in rate expenditure, rate and grant borne expenditure, retail prices and industrial earnings during the last five years. We reproduce the figures below :

INDICES

	Rate Expenditure	*Rates and Grants*	*Retail Prices*	*Industrial Earnings*
1949/50 ..	100	100	100	100
1950/51 ..	103	103	105	105
1951/52 ..	112	114	115	115
1952/53 ..	119	123	121	125
1953/54 ..	123	129	123	131

The two books contain a mass of vital information and Councillor Tom Nally, chairman of the finance committee, and the city treasurer are to be congratulated on the valuable data supplied to the city council.

SHOPS ACT : CHRISTMAS SHOPPING

Home Office Circular No. 196/1954 dated October 6, is as follows :

I am directed by the Secretary of State to say that he has had under consideration the question of exercising his power under subs. (1) of s. 43 of the Act to suspend the operation throughout England and Wales of the provisions of the Act relating to general closing hours during the few days immediately before Christmas, but he does not propose to exercise this power this year.

As the council is aware, local authorities have power under subs. (2) of s. 43 to suspend the general closing hours, subject to the limitations imposed by the proviso to subs. (2) which prohibits suspension for more than seven days in the aggregate in any year, and the Secretary of State is advised that it is open to local authorities in districts where the circumstances justify it to exercise this power at Christmas.

DEPARTMENTAL COMMITTEE TO CONSIDER TRIAL OF MINOR OFFENCES

The Home Secretary has appointed a departmental committee to consider the law relating to the trial of minor offences in magistrates' courts, and to report to him whether it should be amended.

The committee's terms of reference require them to consider what changes, if any, should be made in the law with a view to saving the time of the courts and of witnesses without prejudicing the rights of the defendant.

In particular, the committee are asked to consider whether the law should be altered : to permit a defendant to enter a plea of guilty without appearing before the court ; to permit of the easier proof of previous convictions where the defendant does not appear ; and to permit a monetary penalty, not in excess of an amount fixed by law, to be accepted in settlement of an admitted offence, without a hearing before a court, if both the prosecutor and the accused so wish.

The chairman of the committee is Sir Reginald T. Sharpe, Q.C., and the other members are :—Mr. A. Ll. Armitage, Fellow of Queen's College, Cambridge ; Mr. Paul Bennett, V.C., Metropolitan magistrate ; Sir John F. Ferguson, chief constable of Kent ; Mr. N. W. Goodchild, chief constable of Wolverhampton ; Mr. R. M. Howe, Deputy Commissioner of Police of the Metropolis ; Lady Littlewood, justice of the peace and solicitor ; Miss J. J. Nunn, Home Office ; Mr. D. E. O'Neill, Ministry of Transport ; Mr. J. F. Power, justice of the peace ; and Mr. L. M. Pugh, clerk to the Sheffield city justices. Any organization or person wishing to give evidence to the committee should write to the secretary, Mr. T. FitzGerald, Home Office, Whitehall.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

" VEHICLES EXCISE LICENCES "

As the writer of the article at p. 384 *ante*, I would like to reply to your editorial article at p. 510.

You give on p. 510 *ante* your reasons for thinking that the time-limit for prosecutions under the Vehicles (Excise) Act, 1949 (other than under s. 15 (1)) is three years and not six months, as suggested in my article. I should appreciate your courtesy if I may briefly set-out my reasons for the view that it is six months.

The question is whether all the provisions of the Customs and Excise Act, 1952, apply to summary proceedings under the Vehicles (Excise) Act, 1949, or whether because of s. 313 of the 1952 Act, only such of its provisions as are mentioned in the Transferred Excise Duties (Application of Enactments) Order, 1952, apply to such proceedings.

Excise duties on light locomotives, *i.e.*, mechanically-propelled vehicles not exceeding three tons in weight, were first imposed by the Locomotives on Highways Act, 1898. The Finance (1909–10) Act, 1910, s. 86, substituted new duties, calculated by horse-power, on light locomotives. The Finance Act, 1908, s. 6, which transferred the power to levy these (and other) duties to local authorities, contained a proviso that s. 6 should not apply if the rate of duty was altered. As s. 86 of the 1909–1910 Act did alter it, s. 88 (2) of the same Act reads :

" (2) Notwithstanding the proviso to s. 6 (4) of the Finance Act, 1908, the duties on licences for motor cars (*i.e.*, light locomotives) shall continue to be duties to which that section applies."

Section 88 (2) appears to be still in force.

Although the Finance Act, 1920, did make a number of changes in the duties on mechanically-propelled vehicles, horse-power still remained the basis for computing the duty on many of them. Further, local authorities did not have to set-up new departments to collect the duties imposed by the Finance Act, 1920. It is submitted that these duties were only the descendants and extensions of the carriage and light locomotive duties already collected and they continue to be duties the power to levy which " has been transferred " to local authorities under the Finance Act, 1908, s. 6, within the meaning of the Customs and Excise Act, 1952, s. 313. The draftsman of s. 313 must be assumed to have known of s. 88 (2) of the Finance (1909–10) Act, *supra*, which, though admittedly passed for quite different reasons, was not repealed by the 1952 Act and must be given its ordinary meaning.

I think that it is a rather stronger argument, however, that the position is so obscure that, in a matter affecting the liberty of the subject, the interpretation in his favour should be followed (*R.* v. *Chapman* (1931) 95 J.P. 205 ; *Pearson* v. *Boyes* (1953) 117 J.P. 131). Not only must the subject hunt through various statutes and reach a somewhat doubtful conclusion after considering them ; he must also accept that the Customs and Excise Act has, not by express words but merely by the omission of words, put vehicle excise duties in quite a different position from the other duties collected by local authorities, although there is not a word in that Act to suggest that vehicle excise duties are to be specially favoured. Indeed, s. 313 suggests that the duties collected by local authorities are to be treated differently from those collected direct by the Commissioners themselves, with which the whole of the rest of the Act is concerned. Only s. 313 mentions the local au thority duties. So far as limitation is concerned, it was the general opinion prior to 1952 that the period for proceedings under Vehicles (Excise) Act was six months (see earlier editions of *Stone*, *Halsbury's Statutes*, 1st edn., vol. 16, p. 599, and the Ministry of Transport Handbook on motor licence duties), save under s. 15 (1). One result of extending the period to three years is that the limitation period for proceedings under s. 15 (1) is cut-down. It may be, however, that prior to 1952 the period for all excise proceedings before magistrates

was three years (save under s. 15 (1)), under the Excise Transfer Order, 1909, art. 25, which applied the Customs Consolidation Act, 1876, s. 257.

The view of the Ministry of Transport is that the period is three years (save under s. 15 (1).)

Your, etc.,
CAMBRIAN

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

THE THING !

I think you will be interested in a recent prosecution under a local Act instead of under s. 154 of the Public Health Act, 1936, regarding the sale or exchange of goldfish in return for rags.

In your issue of August 21, 1954, at p. 528, reference was made to the judgment of the Lord Chief Justice in *Daly* v. *Cannon* [1954] 1 All E.R. 315, that a goldfish is not an " article," but that " if the statute (Public Health Act, 1936) had said ' article or thing ' as some statutes have provided, there could be no doubt, I think, that a goldfish would be a ' thing '."

At the Rochdale Magistrates' Court on September 3, 1954, three rag gatherers were prosecuted under s. 127 of the Rochdale Corporation Act, 1948, which provides :

" While any child is entering or leaving any school provided or maintained by the Corporation as the local education authority or is entering or leaving any yard or playground appurtenant to any such school or is in any such yard or playground no person shall solicit such child—(*a*) to sell or give to such person any article or thing ; or (*b*) to exchange with such person any article or thing for any other article or thing."

Only one of the three defendants put in an appearance and he, in pleading " not guilty," quoted the statement of Lord Goddard, C.J. He was surprised to find that the judgment in *Daly* v. *Cannon* was also quoted by the prosecution in greater detail and it was pointed out that the Lord Chief Justice had ruled that an " ' article ' is appropriate to inanimate chattels ; ' things ' both to animate and inanimate."

Each of the three defendants was convicted and fined 50*s*.

Yours faithfully,
S. J. HARVEY,
Chief Constable.

Town Hall,
Rochdale.

REVIEWS

The Local Government Superannuation Act, 1953. By John Moss, C.B.E. London : Haddon Best & Co., Ltd. Price 7s. 6d. net.

The Local Government Superannuation Act, 1937, was never altogether easy. It had to provide for local government officials who had superannuation rights under earlier enactments, and also for people who are not local government officials in the ordinary sense but were brought into the Act. In course of time, the position was made more complicated by new legislation, especially that which was brought about by the change in the value of money in the war and since the war, and now the Local Government Superannuation Act, 1953, has added fresh and difficult problems. Important parts of the statute law are done away with, and regulations of a Minister now take their place. We are in full sympathy with the change which has been made, in putting operative portions of the old Act into regulations, which can be altered from time to time as the value of money changes or as other circumstances make alteration necessary, but the interest of local authorities and their staffs demands that before long consolidation shall be set on foot in regard to the statute law, leaving the machinery of regulations to alter details from time to time as may be necessary. Meantime there is all the greater need for a text book, which will show people concerned (either as actual or potential pensioners, or as finance and other administrative officers) where everybody stands. This need is admirably filled by the new work we are here noticing. Mr. John Moss is something of an expert in this matter : as our readers know, he was an official under the old poor law, and, after the transfer of poor law duties to the councils of counties and county boroughs, he was a senior official in the county service. In his retirement, he has been responsible for much useful work in the local government sphere. The present handbook can be thoroughly recommended. The Local Government Superannuation Act, 1953, is set out and annotated section by section, and is followed by the various series of regulations so far issued, amplifying and giving effect to its provisions. After this, the text of the Act of 1937 is printed, showing what alterations have been made in the interval since that Act was passed, and the necessary circulars and other Whitehall literature conclude the book. The book was on sale in September, in advance of the Local Government Superannuation (Benefits) Regulations, S.I. 1954, No. 1048, which came into operation on October 1 and are duly printed, so it is completely up to date.

The Housing Repairs and Rents Act, 1954. By Ashley Bramall. Second Edition. London : Sweet & Maxwell and Stevens & Sons. Price 8s. 6d. net.

We reviewed the first edition of this " guide " upon its issue, and commended the enterprise of the publishers in producing it so quickly. Early publication involved the penalty that statutory instruments now available could not then be included. In the present edition, the two sets of rules or regulations which implement the Act, and came into operation on August 30, 1954, have been brought in, and the learned author has added tables of dates and periods of notice, as well as an alternative mode of calculating certain increases. Although the price is low as law books go, and the Act is complicated, the practitioner (especially the newly qualified practitioner) may wish that it had not been necessary to bring out two editions within a few weeks of each other. Nevertheless, he will find it helpful to him to obtain this new edition in substitution for the first.

PERSONALIA

APPOINTMENTS

Mr. John Cyril Maude, Q.C., has been appointed by the Lord Chancellor to be an additional Judge of the Mayor's and City of London Court. Mr. Maude is 53, and has been recorder of Plymouth since 1944.

Mr. John Richard Barnes, acting town clerk of Fleetwood, Lancs., has been appointed town clerk, and clerk to the port health authority of Fleetwood, from October 7. Mr. Barnes, who is 40 years of age, had four years' service with a firm of solicitors and was formerly chief assistant to the town clerk of Clitheroe, Lancs., Mr. G. Hetherington, to whom he was articled, being admitted in February, 1950. He was appointed assistant solicitor to Fleetwood borough council on June 1, 1950, promoted deputy town clerk on April 1, 1951, and became acting town clerk on July 8, 1954, after Mr. Alan Smith had resigned his position as town clerk.

Mr. Philip George Meredith has been appointed whole-time clerk to the justices for the Ludlow, Salop, petty sessional division in succession to Mr. F. Malan, the present part-time clerk, who is shortly retiring from the post.

RETIREMENTS

Mr. James Edward Ryall, chief constable of Somerset county constabulary for the past 15 years, is to resign at the end of the year for health reasons. After service abroad, in the Indian police force, Mr. Ryall was appointed chief constable of the East Riding of Yorkshire constabulary in 1934, and held that appointment until 1939, when he took up his present position.

OBITUARY

Mr. R. A. Hogarth, superintendent registrar of births, deaths and marriages for Aylesbury, Bucks., district has died at the age of 62. He had been in local government service for over 40 years.

Mr. Henry Harris Morris, Q.C., one of South Africa's best known criminal lawyers, has died at the age of 76. Mr. Morris was called to the South African Bar some 40 years ago.

NOTICES

The next court of quarter sessions for the city of Hereford will be held on Friday, November 19, 1954.

The next court of general quarter sessions for the borough of Grantham, Lincs., will be held on Wednesday, December 22, 1954.

BOOKS AND PAPERS RECEIVED

The Ceylon Law Society Journal. Volume 1. No. 1. July, 1954. Law Society's Hall, 261, Hultsdorf, Colombo, 12.

Annual Report of the County Architect, Glamorgan, for year ending March 31, 1954.

Mersey River Board : Annual Report, 1953/4.

Pewsey Rural District Council : Year Book, 1954/5 ; Accounts, 1953/4.

Wear and Tees River Board : Annual Report for year ending March 31, 1954.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 86.

IT IS NOT ALWAYS RIGHT TO HELP A FELLOW MOTORIST

A 35 year old farmer driving south along the Great North Road towards Darlington recently, on turning a corner came upon a police patrol car which was checking the speed of a lorry. The farmer overtook both vehicles and, as he passed the lorry he gave " the thumbs down " signal to the lorry driver and pointed to the rear. His action was seen by the police car which overtook his car and he was stopped and informed that he would be reported for wilful obstruction.

Early last month the farmer was charged at Darlington magistrates' court with wilful obstruction of a police constable, contrary to s. 2 of the Prevention of Crimes (Amendment) Act, 1885.

The farmer, who did not appear, stated in a letter that he was doing a duty to the lorry driver.

The court decided that the charge had been proved and fined the farmer £5.

COMMENT

This little case exemplifies one of the actions upon which the views of the general public and the views of those who are responsible for the maintenance of order, differ. The writer believes that it would be hard to find a layman who would regard the action of the farmer as one deserving of censure, and indeed until the matter had been thrashed out in the Divisional Court in 1909 in the case of *Betts* v. *Stevens* (1909) 73 J.P. 486, it is safe to say that judicial authority also leant to the same view.

It will be recalled that in that year there was heard in the Divisional Court with Lord Alverstone, C.J., presiding, a very forceful argument put forward by Lord Alverstone's successor—the first Lord Reading—who was seeking to support the action taken by the A.A. to help their members avoid police prosecution.

The case after all these years makes interesting reading and it will be recalled that what happened, very briefly, was that when a band of devoted police officers set out to operate a number of traps in the vicinity of Guildford in the hope of collecting a bag of motorists found to be exceeding the fast speed of 20 m.p.h., the A.A. scout, showing a red badge marked " A.A.41," took his position at the side of the constables who were stationed at the commencement of the trap. As drivers approached and saw the red badge they slowed down with the result that the police officers spent an extremely unfruitful afternoon. Mr. Isaacs, as he then was, arguing the case for the A.A. scout, urged, *inter alia*, that the scout so far from obstructing the police, was in fact really assisting them by preventing the commission of an offence ! This argument failed to impress the Court, Lord Alverstone saying "It is drawing very much on the credulity of the Court if he (Mr. Isaacs) thinks we could adopt such a view." The conviction of the scout was upheld by the Court without difficulty, but it is interesting to note that Darling, J., in giving the second judgment, said " I think that if what this man did, was found as a fact to have been done merely with the intention to have the law observed, no offence would have been committed."

There must be many cases of which the one recorded above may perhaps be a good illustration, where it is not easy for the court to be sure that the action of the defendant may not fairly be said to have been designed to ensure that the law should be observed.

(The writer is indebted to Mr. J. R. Waite, the clerk to the Darlington justices, for information in regard to this case.) R.L.H.

No. 87.

TWO YOUNG MEN NARROWLY ESCAPE IMPRISONMENT

Two men aged 21 and 20 respectively, appeared before North Erpingham justices sitting at Cromer last month to answer serious charges under the Road Traffic Act, 1930. The older man was charged with driving a motor cycle when not insured against third party risks contrary to s. 35 of the Act and with driving a motor cycle whilst disqualified contrary to s. 7. The younger man was charged with permitting the insurance offence and aiding and abetting the other to drive while disqualified.

For the prosecution it was stated that a police constable saw two men on a motor cycle when he was at Thorpe market. The pillion passenger turned round and he recognized the second defendant, who spoke to the driver. The driver then turned and he recognized the first defendant, but was unable at that stage to stop the motor cycle. The constable later saw the first defendant who admitted that he was driving, and the second defendant explained to him that he was teaching the first defendant to drive and said that the first defendant had no licence and had never had one.

The constable, a few days later, saw the first defendant again and told him he had reason to believe he was disqualified from driving for 12 months in November last, and that the disqualification was still in force. The first defendant told the constable that he thought he was " in the clear " from September, 1954.

The defendants, who pleaded guilty to the charges, were warned by the bench that they were in danger of being sent to prison unless they could put forward special mitigating factors. The first defendant said that he thought his disqualification had expired and that he had obtained a driving licence form which he had half filled up to send away. The second defendant who at first said he wished to make no statement, later told the magistrate that he honestly believed that at the time he allowed the first defendant to drive the disqualification had been removed.

The first defendant was fined £5 and disqualified from driving for one year upon the first charge, and £15 with a two year disqualification upon the second charge. The second defendant received similar punishment except that the fine imposed upon him in respect of the second charge was a fine of £10 instead of £15.

The chairman stated that the bench were satisfied that the second defendant knew perfectly well that the first defendant was disqualified, but after much consideration the court felt that there were special reasons why the men should not be sent to prison.

COMMENT

Mr. E. P. Hansell, clerk to the North Erpingham justices, to whom the writer is greatly indebted for this report, mentions that the previous disqualification imposed on the first defendant was in November, 1953, for driving an agricultural tractor on a public highway when not covered by third party insurance, and that the circumstances of that conviction were not very serious. Mr. Hansell adds that no application for the removal of the disqualification had been made by the first defendant, so that at the time of the offence outlined above there was a period of some two months of the disqualification still to run.

It will be recalled that in *Lines* v. *Hersom* (1951) 115 J.P. 494, Lord Goddard, C.J., amplified what the court had already said in *Whittall* v. *Kirby* (1947) 111 J.P. 1. The Lord Chief Justice after saying that he could find no different meaning to be attached to the words (as to special reasons) in s. 7 (4) from the meaning to be attached to those in ss. 15, 11 and 35, re-emphasized that in considering cases under s. 7 the reasons which may justify justices in refraining from imposing a term of imprisonment must be reasons special to the case and not to the offender. The Lord Chief Justice had earlier said in his judgment that *prima facie*, the punishment for an offence under s. 7 (4) is imprisonment.

It is against this background that the case reported above has to be considered, and the writer thinks that many will feel that the first defendant at any rate was fortunate in escaping a prison sentence.

R.L.H.

PENALTIES

Old Bailey—September, 1954. Wounding with intent to do grievous bodily harm. Three years' imprisonment. Defendant, a 21 year old farm worker, smashed a glass on a counter in a public house, kicked the licensee and jabbed the butt end of the glass into his face, striking him across the eye. Defendant, whose character was exemplary, had since written a letter describing the offence as most shameful.

Pocklington—September, 1954. Assaulting a police inspector. Six months' imprisonment. Defendant, a 22 year old national serviceman, was told by the inspector to get back to camp after his conduct had given cause for complaint. Defendant struck the inspector a severe blow and later a further blow, followed by a violent blow on the chest with his head causing injury to four ribs.

Whitley Bay—September, 1954. Malicious wounding. Fined £15 and to pay £10 2*s*. 3*d*. costs. Defendant, a 23 year old boatman, fought an American airman after a quarrel at a dance. He knocked the airman unconscious and then sat on his chest and punched away at the airman's face until it was " a bloody mess."

Sheffield—September, 1954. (1) Drunk and disorderly. (2) Failing to leave licensed premises when requested. (1) Fined £1. (2) Fined £2. Defendant, a poliomyelitis victim, paralyzed from the waist downwards, was pushed into a public house in his wheelchair. The licensee noticed that he was slumped in the chair and drunk. Defendant refused to be taken out of the premises and clung to a partition.

Newport—September, 1954. Stealing £2 6*s*. and eight cigarettes. Fined £10. Defendant stole them from a friend's room and when questioned by the police put the notes in his mouth, chewed them up and swallowed them. The cigarettes were found rolled up between his trousers and his shirt.

"DO GOOD BY STEALTH"

Among the many defendants who come before the magistrates' courts, a large proportion are charged with larceny. This offence is one of the few which has its roots deep in antiquity; it is prohibited by the Decalogue and the still older Code of Hammurabi of Babylon. Grave, often savage, penalties have been usually prescribed for a violation of the rights of property. One interesting exception is in Roman law, which from ancient times until the days of the Empire regarded larceny as primarily a delict or tort, the subject of a civil remedy; it was only in the time of Justinian that the criminal penalty took precedence. In English law larceny has been a felony from early times, and until the 1830's involved the capital penalty in all but the most trivial cases.

Of all the crimes in the calendar larceny exhibits the greatest diversity in motives and surrounding circumstances. Perhaps that is what makes it so often difficult of detection; for motive, though immaterial to the question of guilt, is frequently a useful guide in matters of evidence. How are the police to start their investigations in face of the fact that, apart from the obvious motive force of poverty, the *animus furandi* may arise from a mistaken ethical or social outlook, an altruistic desire to benefit some third party, the caprice of a collector, the driving force of adventure, an inexplicable impulse, or a mere sense of fun? A glance at some of the recent cases reveals all these varied motives, and many others.

At Oxford a young woman undergoing training as a missionary was convicted of stealing from a bookseller a number of works on religious subjects, the contents of which she had voraciously devoured. Her superiors, the probation officer and the magistrates sought in vain to impress upon her the moral obliquity of what she had done; she remained completely unrepentant, for in her outlook the end justified the means. In Sheffield a works-clerk "with a passion for the better type of literature" helped himself, over a long period, to three volumes of *The European Inheritance*, two of *The Mediaeval Stage*, a seven-guinea book on Byzantine Art, *The Times and Life of Lucrezia Borgia*, the *Shorter Cambridge Mediaeval History*, *An Introduction to Mediaeval Architecture* and *The Literary History of Rome*. He had read them all and intended to keep them for re-reading and reference. He had previously been a "good customer" and had bought scores of books of a serious nature at the same shop. There is something about such cases that compels a sneaking sympathy, different as they are in degree and kind from the crude activities of mail-bag robbers and "smash-and-grab" raiders of jewellers' shops.

In a recent case at Middlesbrough a 19 year old shop-girl was said to have an elegant taste in expensive perfumes and cosmetics. Already on probation for stealing a bottle of high-quality scent, she had obtained a further supply by signing a false name to a credit account. At Newton-le-Willows, Lancs., a bouquet which was to have been presented to the daughter of Viscount Bridgeman, at a sports-meeting, had disappeared when the ceremony began. A 16 year old boy pleaded guilty to stealing it, telling the court that he had taken the flowers to his grandmother, explaining he had "won them in a raffle." These perhaps are cases which Duke Orsino had in mind when he talked in *Twelfth Night* of "stealing and giving odour." They bear some analogy with that of the bold practitioner who abstracted Leonardo's *La Gioconda* from the walls of the Louvre. He could have no hope of selling it, but desired to possess a thing of beauty for the adornment of his home, as his humbler competitors, in the recent cases, were tempted by natural impulses, in the one to self-adornment, in the other to gratifying the senses of an elderly relative.

Inquisitiveness, not acquisitiveness, was the vice that led to the brief appearance of a Stepney machinist in the dock. It was particularly hard on him, for he was at all times innocent of any larcenous intent, and was duly acquitted. He found a wrist-watch—"a cheap affair, a sort of 'lucky-packet' prize with glass stones." He took it home, intending to hand it to the police the following day. His wife's curiosity got the better of her, and she took it for valuation to a pawnbroker, who found the "glass stones" to be diamonds and the value £200. The inquisitive lady was detained as she was leaving the shop; but an explanation to the court resulted in a happy ending.

Another curious case, which reads like a reversal of the old, defunct presumption of marital coercion, is reported from Gateshead-on-Tyne. A lorry-driver appeared in court on a charge of stealing 2½ *cwt.* of whinstone chippings from a roadside dump, the property of the Northumberland County Council. His story, corroborated by his wife, was that there was a "muddy quagmire" outside his home; that his spouse had incessantly "nagged at him" about treading mud from his boots on to the dining-room carpet, and had urged him to make a pathway up to the house with some of the stones "left lying about in heaps" on the roadside. By s. 1 (3) of the Larceny Act, 1916, "Everything which has value and is the property of any person, and if adhering to the realty then after severance therefrom, shall be capable of being stolen," and nice questions of law might have arisen on the fact and the degree of severance. This however proved unnecessary, for the accused man was, on the evidence, conditionally discharged. The story sounds, *mutatis mutandis*, like a pointed reference to the Biblical question: "What man is there of you, whom if his son ask bread, will he give him a stone?"

A recent epidemic at Surbiton, Surrey, of thefts of red reflectors from parked motor-cars comes into a different category. Inquiry has shown that these accessories are objects of the latest collectors' craze—a form of compulsion-neurosis which has run the gamut from cigarette-cards, matchboxes, cheese-cartons, beer-mugs, table-mats, sign and notices, and other objects of no intrinsic value, to hotel-cutlery and china, museum *objets d'art*, fragments, and even statuettes and decorative *motifs*, from ancient monuments. There is something of the jackdaw in every human being at certain times in his life, and the dividing line between larceny *lucri causa* and the satisfaction of a collector's instinct is difficult to draw. The controversy over the removal of the friezes from the Parthenon at Athens by the Seventh Earl of Elgin has never been completely resolved; it is fair to say that, even after the purchase by the British Museum, he was still some £14,000 down on the whole transaction; but the moral of that story seems to be—if you are going to do it at all, do it on the grand scale. Shakespeare's Pistol had no use for such subtle distinctions:

> "'Convey,' the wise it call. 'Steal', foh! a fico for the phrase!"

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Case Stated—*Remitted to justices for them "to state whether they find that the respondent is intending to do" an act—Can further evidence be taken?*

A person aggrieved by an enforcement notice served upon him by the local planning authority appeals to the justices under s. 23 (4) of the Town and Country Planning Act, 1947, and the justices quashed the enforcement notice. A case is stated. The Queen Bench's Division after hearing the arguments of counsel remitted the case to the justices for them "to state whether they find that the respondent is intending to do" an act called X or Y. The solicitors concerned in the case are of the opinion that as this is a civil matter, the justices should re-instate the case, and hear evidence limited to facts material to the questions to be answered. I am of the opinion that further evidence cannot be taken, and the questions should be answered by the justices on the evidence heard and on the facts determined by them when they made their decision. I shall be pleased to have your opinion, and will you please assume that the evidence was insufficient to enable the justices to determine the new facts now required by the High Court.

S. GUTEN.

Answer.

Under s. 6 of the Summary Jurisdiction Act, 1857, as amended by the Magistrates' Courts Act, 1952, sch. 5, the High Court may "reverse, affirm, or amend the determination . . . , or remit the matter to the justice or justices, with the opinion of the court thereon, or may make such other order in relation to the matter . . . as to the court may seem fit."

In this case the High Court has remitted the case to the justices for them "to state whether they find that the respondent is intending to do" an act. In our opinion all the justices can do is to answer that question as best they can on the evidence already given. The fact that it is a civil case makes no difference. They have no power to do anything more than the order of the High Court requires them to do. They could not take further evidence now unless they were specifically required to do so by the High Court.

2.—Children and Young Persons—*Offences against—Limitation of time—Children and Young Persons Act*, 1933, *s.* 14 (3).

A boy aged 16 was charged before my juvenile court with unlawful carnal knowledge of a girl between the ages of 13 and 16, contrary to s. 5 (1) of the Criminal Law Amendment Act, 1885. The court decided to deal with the charge by summary trial; the accused consented and pleaded guilty. It was then realized that the date of the offence was more than six, though less than 12 months, before the date the information was laid, and that by virtue of s. 14 (3) and sch. 1 of the Children and Young Persons Act, 1933, the accused could not be summarily convicted.

The case was adjourned to enable the prosecution to consider the position, and the defendant to be legally represented.

I understand that at the adjourned hearing the prosecution will ask the court to commit the accused for trial, and that this will be opposed by the defence on the ground that by s. 24 of the Magistrates' Courts Act, except as provided by s. 18 (5) (which does not apply), a magistrates' court, having begun to try an information for any indictable offence summarily, shall not thereafter proceed to inquire into the information as examining justices. Against this it may be argued that as the court had no jurisdiction to try the accused summarily, it cannot be said to have begun to try the information summarily. It may also be argued that as the court had accepted a plea of guilty the accused could plead *autrefois convict* when arraigned (*R.* v. *Grant* (1936) 100 J.P. 26; Cr. App. p. 8), and to the contrary that in *R.* v. *Grant* the court had jurisdiction to convict and sentence the accused.

I should be glad of your advice as to whether the accused can properly be committed for trial.

TELEMON.

Answer.

Our learned correspondent has put the arguments on both sides quite clearly. Our opinion is that in purporting to hear the charge summarily and to take a plea the justices were acting without jurisdiction to deal with a case in which they should have proceeded as examining justices. The proceedings should, in our view, be treated as a nullity, and the justices should take depositions and commit for trial if satisfied that the evidence is sufficient to justify a committal.

3.—Evidence—*Insurance policy—Witness summons to defendant.*

The local police inspector recently applied to my justices for a summons against A in respect of a charge of permitting B to use a motor vehicle without third party risk insurance. The inspector also asked for a witness summons against A calling upon him (A) to produce the insurance policy at the hearing. I am of the opinion that as the defendant (A) cannot be compelled to produce the policy as evidence against himself (*Trust Houses, Ltd.* v. *Postlethwaite* 109 J.P. 12) a witness summons should not be issued. It would be otherwise in any case against B for using the vehicle without third party risk insurance, and A could be summoned as a witness and made to produce the policy as evidence against B.

The application for the witness summons was not pressed at the time, but the inspector subsequently referred me to the case of *Edwards* v. *Griffiths* [1953] 2 All E.R. 874; 117 J.P. 514. Part of the judgment of the Lord Chief Justice is as follows: "It would be better in all these cases . . . always to take the precaution of having the policy before the court" and goes on to state how this can be done, *i.e.*, by subpoena. It appears to me that the Lord Chief Justice meant in cases where the defendant was not the policy holder.

S. BUXWOX.

Answer.

We are in entire agreement with our learned correspondent. A could be summoned to produce his policy in proceedings against B, but not in proceedings against himself. He could be given notice to produce, and if he did not produce the policy secondary evidence could be given of its contents.

See our note at 117 J.P.N. 585.

4.—Highway—*Retaining wall—Repair below and above surface.*

Trustees have purchased land lower than road level, and the boundary wall, in addition to preventing persons gaining access to the ground, also supports the footpath and road, which are the local authority's responsibility. The trustees, of which I am one, have received information from the city council that the wall is unsafe, both above and below road level, and it appears to be an expensive business to rebuild the wall. The trustees feel that their responsibility lies above the footpath, but that the portion holding the footpath and road in position is that of the council. I feel certain there must be some case law on this subject, and if you can assist my trustees by letting me know your views, together with any cases of which you may be aware, I shall be grateful.

PARIS.

Answer.

Whether a wall which supports a highway is part of the highway and repairable by the highway authority is a question of fact, but such a wall will be held to be part of the highway in the absence of rebutting evidence: *R.* v. *Lordsmere* (1886) 51 J.P. 86; *Reigate Corporation* v. *Surrey County Council* (1928) 92 J.P. 46. Even if it does not form part of the highway but belongs to a private person, and the public have acquired a prescriptive easement of support, the owner of the wall is not obliged to repair the wall in order to support the highway: *Stockport, Hyde and Macclesfield Highway Board* v. *Grant* (1882) 46 J.P. 437; *Short* v. *Hammersmith Corporation* (1910) 75 J.P. 82. The owner of the wall may be under a liability to fence off the road to protect passengers, but he may do so by means other than the wall.

5.—Landlord and Tenant—*Insanity of tenant—Notice to quit—Service and enforcement.*

My council own a house which was occupied by a tenant who has now been removed to a mental home, and certified. It is not likely that she will return. My council have, therefore, instructed me to recover possession of the house. Could you advise me how to recover possession in a case of this kind?

CERES.

Answer.

A writ or summons can be served on the chief officer of the mental hospital, and the reasoning of the courts in some cases suggests that the prior notice to quit can also be served on him. After service, an application can be made to the court for appointment of a guardian *ad litem*. Order IX, r. 5, and the notes thereon in the Annual Practice should be consulted; also Order XIII.

6.—Landlord and Tenant—*Rating assessment covers let and unlet premises—Notice of increase to cover increased rates.*

L is the owner of a combined dwelling-house and shop premises which L purchased as a whole in 1952 when T was tenant of the dwelling-house only. T remains tenant. L carries on a retail business in the shop and lives elsewhere. The letting to T was made by a

predecessor in title of L since 1939, and there is no written agreement of tenancy.

The premises are rated as a whole and although the rates have increased substantially since T's tenancy began, both before and after L became the owner, L has not been in a position to serve a valid notice of increase of rent as there is no basis on which to apportion the increase as between the dwelling and the business parts of the premises.

Please state, with authorities, what steps are open to L to enable him to recover from T some part of the increase in the rates on the premises.

C.C.T.J.

Answer.

This seems to be a case for applying to the county court to apportion the rateable value, under s. 12 (3) of the Rent Restrictions Act, 1920, and s. 17 (2) of the Act of 1933. The apportionment will be binding on the rating authority, and upon the tenant, and will provide the basis for the requisite notice of increase. There is a great deal of case law about apportionment by the county court, to be found in the text books, but we think the section itself contains all the authority needed.

7.—Public Health Act, 1936—*Nuisance—Noisy animals.*

I refer to *Questions and Answers from the Justice of the Peace*, 1938-1949, p. 363, opinion 104. Have you been consulted since regarding dogs and statutory nuisances or has any case before the magistrates or otherwise come to your attention? I respect the opinion which you give and, although I share your view, I am being pressed to take a case for an abatement order under s. 92 (1) (*b*) of the Public Health Act, 1936, concerning the unbearable barking of dogs in a dogs' home (established in one house in a terrace of houses), the home itself, however, being conducted in all respects satisfactorily. I have considered the notes in *Lumley* in relation to s. 92 (1) (*a*) where it is stated, in relation to that subsection: "It would appear, therefore, that they apply only to premises which are a nuisance by reason of their condition, and not to premises which are a nuisance by reason of the purposes for which they are used. This view is supported by the provisions of s. 268." I am not necessarily of the opinion that the same reasoning under s. 92 (1) (*a*) can apply to s. 92 (1) (*b*). I realize the case would present considerable difficulty, but I would value your view upon whether it would be insuperable.

ADRASTUS.

Answer.

We do not know of any decision which involves modifying our former opinion. We concede that in para. (*b*) if it stood alone the words "any animal kept in such a manner as to be a nuisance" are apt to describe noisy animals, who would be called a nuisance in everyday speech. But we still think those words are controlled by the whole context, and that the Divisional Court would regard it as a misuse of the section to apply it to noise. We consider that the complainants should be left to take such steps as their own solicitors advise. Section 99 is open to them as well as civil remedies.

8.—Public Health Act, 1936—*Inadequate cesspool and closets—Choice of remedies.*

Four cottages forming one terrace block are in one ownership but are separately occupied. The sink drainage is to a small common cesspool which is inadequate and overflows within two days of its being emptied. The overflow spills into a nearby stream which discharges into the main river. Each of the cottages has an exterior pail closet accommodation which is considered to be so defective as to require reconstruction. For many years it has been the practice of the occupants of the cottages to empty the contents of the pail closets at the end of their gardens at a point some 50 to 70 feet from the cottages themselves. This has now given rise to complaints of a nuisance by neighbouring occupiers. The owner contends that the expense of enlarging the cesspool and reconstructing the closets is prohibitive in view of the substandard cottages that will still remain, and has suggested that if the council will rehouse the tenants he will convert the four cottages into two with interior closets draining to a larger cesspool. The council have refused to rehouse the tenants who in any case appear to be protected under the Rent Acts.

The council are now about to consider the service of the appropriate notices under the Public Health Act, 1936, and your opinion is sought as to:

(1) Whether the council should

(*a*) serve separate notices under s. 39 (in respect of the inadequate cesspool), and s. 44 (in respect of the defective closets), and s. 93 (requiring an abatement of the nuisance) in which case may the works to be specified by the notice include those already comprised in the above notices under ss. 39 and 44, together with a requirement that the pail closets be emptied into the enlarged cesspool; or

(*b*) serve a notice under s. 93 alone requiring an abatement of the nuisance by the execution of works in respect of the cesspool and closets together with a requirement that the pail closets be emptied into the enlarged cesspool.

(2) Whether the notice under s. 93 in respect of (*a*) or (*b*) above may properly be served upon the owner. It is true that the inadequate cesspool and defective closets are a default of the owner but it is the occupiers who empty the pail closets.

(3) Whether the statutory nuisance arising under s. 92 should be framed as falling within subs. (1) (*a*) or (1) (*c*). It appears to me that if the defective closets are to be caught up as prejudicial to health then subs. (1) (*a*) is to be preferred.

(4) Whether in any event it is necessary to serve a separate notice under any or all of the above sections in respect of each cottage. It should be noted that the rent of all four cottages is collected by one agent.

CADMUS.

Answer.

We consider that ss. 39 and 44 which are specific, and afford less scope for delaying tactics by the owner, should normally be used in preference to the general powers of ss. 92 and 93. The difficulty which often stands in the way of s. 39, that the owner of the building may not own the cesspool, is absent. Accordingly:

(1) There should be a notice on the owner under s. 39 and a separate notice on him under s. 44 in respect of each closet, five notices in all. The notices under s. 44 should require proper earth-closets. (We infer the circumstances are not such that water-closets can be required.) If properly constructed earth-closets are installed, there will be no nuisance from emptying the receptacles, so long as the tenants use them properly, and this can be looked out for.

(2) (3) On our view of (1), these questions do not arise as asked, but we consider that under s. 93 a notice should be served also on each tenant, requiring him to abate the nuisance named in s. 92 (1) (*c*), *viz.*, the stinking deposit, by "taking steps," such as emptying the pail elsewhere pending completion of his new earth-closet. It is plain that each tenant by adding his share of the deposit is causing part of the total nuisance, and the judgment of Cockburn, C.J., in *Brown* v. *Bussell* (1868) L.R. 3 Q.B. 251, at p. 260, is directly in point. The council are not bound to tell him exactly where to put his filth (wherever he puts it there will be a nuisance sooner or later if he puts it in the same place); the step to be taken is to stop putting it with his three neighbours' filth in the present place.

(4) *See* above.

9.—Road Traffic Acts—*No insurance policy—Vehicle taken and driven away, without owner's consent, by three men—Liability of all three for uninsured use of vehicle.*

Three men took a motor car from county A without the consent of the owner of the car. They went in it to adjoining county B where they attended a dance. At this dance they were involved in a fracas, as a result of which all three are charged in county B with "causing grievous bodily harm" under the Offences against the Person Act, 1861, s. 20. After the dance they were seen to re-enter the car and drive away. They returned to county A where they were apprehended, charged and convicted of taking the vehicle without the consent of the owner, but they were not charged with any other offence.

They are now charged in county B not only under s. 20 of the Act of 1861, but also with uninsured use of the car, contrary to the Road Traffic Act, 1930 (s. 35). The police in county B are unable to prove which of the three actually drove the car. Can all three be convicted of uninsured use contrary to the Road Traffic Act, s. 35?

JASON.

Answer.

Yes, on the assumption that all three knew that the car was being taken without the owner's consent.

10.—Road Traffic Acts—*Speed limit—Light goods van not carrying goods but drawing a trailer.*

A is the owner of:

(*a*) a private 10 horse power motor car and

(*b*) a 15 hundredweight utility van licensed and adapted to carry passengers or goods and in respect of which he holds a "C" licence. When drawing a loaded trailer with his private motor car the speed limit is 30 m.p.h. When drawing a loaded trailer with the utility van carrying goods or burden the speed limit is 20 m.p.h. In view of *Blenkin* v. *Bell* [1952] 1 All E.R. 1258 and *Wooley* v. *Moore* [1952] 2 All E.R. 797, what is the speed limit when the utility van is drawing a loaded trailer but the utility van is not carrying either goods or burden?

J. X.Y.Z.

Answer.

The cases referred to deal with the interpretation of para. 2 (1) (*a*), sch. 1, Road Traffic Act, 1930. They do not decide that, when not within that paragraph because it is not carrying goods, a goods vehicle ceases to be a goods vehicle. Therefore, whether the trailer is laden or unladen the speed limit of the van, a goods vehicle, when drawing a trailer is regulated by para. 2 (2) (*a*) of the schedule and is 20 miles per hour.

CITY OF LEICESTER

Magistrates' Courts Committee

A SECOND ASSISTANT CLERK is required in the office of the Clerk to the Justices.

Applicants must have good general experience of such an office, knowledge of accounts and be capable of taking a Court if required.

Salary £560—£640 subject to future review.

Medical examination required for purpose of Superannuation Scheme.

Applications, giving particulars, to be sent to me before November 6.

W. E. BLAKE CARN,
Clerk to the Committee.

Town Hall, Leicester.

BUCKS COUNTY COUNCIL

APPLICATIONS are invited for the post of ASSISTANT SOLICITOR on the new Grade A.P.T. V (£750 × £30—£900) in the office of the undersigned. Commencing salary according to experience. The post is superannuable and subject to medical examination. Local government experience is not essential.

Applications, giving the names and particulars of two referees, must reach the undersigned by November 12, 1954. No forms are being issued.

GUY R. CROUCH,
Clerk of the Bucks County Council.

County Hall,
Aylesbury.

METROPOLITAN BOROUGH OF WANDSWORTH

Law Clerks

APPLICATIONS are invited for two established posts of Law Clerk in the Legal Section of the Town Clerk's Department.

(*a*) One post in the *new* grade A.P.T. III £630—£755

(*b*) One post in the *new* grade A.P.T. II £590—£670.

Applicants for post (*a*) must have considerable experience of conveyancing including registered and unregistered titles, housing advances, compulsory purchase and clearance orders, requisitioned properties, leases, etc., and be capable of working with nominal supervision.

Applicants for post (*b*) must be experienced in conveyancing (particularly in relation to housing advances) and general municipal legal work including common law.

Form of application stating post for which applying, obtainable from me, must be returned by November 6, 1954.

R. H. JERMAN,
Town Clerk.

Municipal Buildings,
Wandsworth, S.W.18.

MIDDLESEX MAGISTRATES' COURTS COMMITTEE

JUSTICES' CLERK'S ASSISTANT (whole-time) required for Highgate Division, experienced in keeping magisterial accounts, issuing process, and general duties of Clerk to the Court. Commencing inclusive salary £495 per annum. (Scale £420—£550 per annum basic —temporary bonus £75 per annum.) Pensionable and subject to medical assessment. Apply, giving three referees, to the Clerk to the Magistrates' Courts Committee, Guildhall, Westminster, S.W.1 by November 2 (quote P.329 J.P.).

COUNTY OF EAST SUSSEX

Appointment of Female Probation Officer

THE East Sussex Probation Area Committee invite applications for the appointment of a whole-time female probation officer to serve in the East Sussex Probation Area.

The appointment will be subject to the Probation Rules and the scale salary will be paid, subject to deductions for superannuation. The selected candidate will be required to pass a medical examination.

Applicants must be between the ages of 23 and 40, except in the case of serving officers, and must be qualified to deal with probation cases, matrimonial differences and other social work of the courts.

Applications, stating age, experience, educational qualifications and present appointment, together with a copy of one recent testimonial and the names of two referees, should reach me within 14 days of the appearance of this advertisement.

H. S. MARTIN,
Secretary of the Probation Committee.

County Hall,
Lewes.

CITY OF SHEFFIELD

Appointment of Principal Probation Officer

APPLICATIONS from men and women are invited for the above appointment. Applicants must be serving Probation Officers of experience.

The person appointed will be required to carry out the duties prescribed from time to time by the Probation Rules and the salary will be in accordance with the Probation Rules, 1949 to 1954.

The appointment is superannuable and the successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience and the names of three referees, must reach the undersigned not later than November 15, 1954.

LESLIE M. PUGH,
Secretary of the Probation Committee.

The Court House,
Castle Street,
Sheffield, 3.

COUNTY BOROUGH OF WEST HAM

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer.

Applicants must not be less than 23 nor more than 40 years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules, 1949 to 1954, and the salary will be according to the scale prescribed by those Rules.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with not more than two recent testimonials, must reach the undersigned not later than Monday, November 15, 1954.

G. V. ADAMS,
Secretary of the Probation Committee.

West Ham Magistrates' Court,
West Ham Lane,
Stratford,
London, E.15.

BOROUGH OF BARKING

ASSISTANT SOLICITOR REQUIRED, commencing salary, within Grade VI/VII, according to experience. Applications, including the names of two referees, to be received by the Town Clerk, Town Hall, Barking, on or before November 8, 1954.

COUNTY OF BERKS

Appointment of Male Probation Officer

THE Berkshire Probation Committee invite applications for the appointment of a male whole-time Probation Officer.

The appointment will be subject to the Probation Rules, 1949 to 1954. Applicants must not be less than 23 nor more than 40 years of age, except in the case of a serving whole-time Probation Officer. Applicants should state whether they have, or are able to drive, a car. The selected applicant will be required to pass a medical examination.

Forms of application can be obtained by sending a stamped and addressed envelope to the undersigned and must be returned not later than November 8, 1954.

E. R. DAVIES,
Secretary of the Berkshire Probation Committee.

Shire Hall,
Reading.

BOROUGH OF ROWLEY REGIS

Appointment of Town Clerk

APPLICATIONS are invited for the above appointment, at a salary commencing at £1,500 per annum.

The salary scale and conditions of service are in accordance with the Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks, and the appointment will be subject to three months' notice on either side.

The successful applicant will be required to pass a medical examination, and he will be expected to take up his duties on April 1, 1955.

Applications, giving the names of two persons to whom reference may be made, should reach me not later than Monday, November 8, 1954.

R. HEGAN,
Town Clerk.

Municipal Buildings,
Old Hill, Staffs.
October 23, 1954.

BOROUGH OF HIGH WYCOMBE

Appointment of Legal Assistant

APPLICATIONS are invited for the appointment of a Legal Assistant in my Department at a salary in accordance with the new Grade A.P.T. II (£560 × £20—£640). Applicants should have experience in conveyancing and general legal work. Local Government experience is desirable but not essential. Applications, giving particulars of age, qualifications and experience, and the names and addresses of two referees, should reach me by not later than November 9, 1954. Housing accommodation will be provided if required.

N. M. FOWLER,
Town Clerk.

Municipal Offices,
High Wycombe, Bucks.

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Printed in Great Britain by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. Registered at the G.P.O. as a newspaper. Saturday, October 23, 1954. **Price** 2*s.* 3*d.* with Reports, post free 2*s.* 5*d.*; without Reports 1*s.* 3*d.*, post free 1*s.* 5*d.* Subscription rates : £6 per annum with Reports ; £3 10*s.* per annum without Reports.